



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 49] नई दिल्ली, दिसम्बर 1—दिसम्बर 7, 2013, शनिवार/अग्रहायण 10—अग्रहायण 16, 1935

No. 49] NEW DELHI, DECEMBER 1—DECEMBER 7, 2013, SATURDAY/AGRAHAYANA 10—AGRAHAYANA 16, 1935

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 28 नवम्बर, 2013

कांआ 2540.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई सारणी के स्तंभ (2) में वर्णित अधिकारियों को, जो राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है और आगे यह निदेश देती है कि उक्त अधिकारी ऐसे स्थानीय सीमाओं के भीतर या उक्त सारणी के स्तंभ (3) में यथा-विनिर्दिष्ट सरकारी स्थान की बाबत उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग करेंगे और उनको अधिरोपित कर्तव्यों का पालन करेंगे, अर्थात्:—

सारणी

क्र. सं.	अधिकारी	स्थानीय सीमाएं/सरकारी स्थान
(1)	(2)	(3)
1.	ऐसे पुलिस उप महानिरीक्षक या पुलिस अधीक्षक जो राष्ट्रीय अन्वेषण अभिकरण मुख्यालय तथा शाखा कार्यालय, राष्ट्रीय अन्वेषण अभिकरण में प्रधान कार्यालय के प्रभारी का पद धारण किए हुए हैं।	राष्ट्रीय अन्वेषण अभिकरण, मुख्यालय, नई दिल्ली तथा शाखा कार्यालयों द्वारा या उसकी ओर से लिए गए पट्टे का स्थान या पट्टे पर लिए गए स्थान।

[फा० सं० ए सी-1/एन आई ए-जी एच टी वाई/एन आई ए/2013-
एम एच ए/पी एफ-III]
ग्रेसी जेम्स, अवर सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 28th November, 2013

S.O. 2540.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of unauthorized occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (2) of the Table below, being Gazetted Officers of the Government, to be Estate officers for the purposes of the said Act, and further directs that the said officers shall exercise the powers conferred, and perform the duties imposed, on such Estate officers by or under the said Act, within such local limits or in respect of public premises as specified in column (3) of the said Table, namely:—

TABLE

S1. No.	Officers	Local limits/Public premises
(1)	(2)	(3)
1.	Deputy Inspector General or Superintendent of Police holding the charge of Head of Office, National Investigation Agency, Headquarter and Branch Offices, National Investigation Agency.	Premises belonging to, or taken on lease, by or on behalf of, the National Investigation Agency, Headquarter New Delhi and Branch Offices.

[F.No. AC-1/NIA-Ghty/NIA/2013-MHA/PF-III]
GRACY JAMES, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 4 अक्टूबर, 2013

का०आ० 2541.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उपखंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, पंजाब नेशनल बैंक के कार्यपालक निदेशक श्री साधु राम बंसल (जन्म तिथि: 03.01.1956) को उनके द्वारा पदभार ग्रहण करने की तारीख से 31.01.2016 तक अर्थात् उनके द्वारा अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, कापॉरेशन बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा० सं० 4/4/2012-बीओ- I]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 4th October, 2013

S.O. 2541.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of Clause 8 of The Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Sh. Sadhu Ram Bansal (DoB: 03.01.1956), Executive Director, Punjab National Bank as Chairman and Managing Director, Corporation Bank, from the date of his taking over the charge of the post and upto 31.01.2016, i.e., the date of his superannuation or until further orders, whichever is earlier.

[F.No. 4/4/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 15 अक्टूबर, 2013

का०आ० 2542.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3(ज) और (3क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री नागी रेड्डी वेंकट रमण रेड्डी (जन्म तिथि: 21.06.1952) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, आंध्रा बैंक के निदेशक मंडल में अंश-कालिक गैर-सरकारी निदेशक के रूप में नियुक्त करती है।

[फा० सं० 6/36/2013-बीओ- I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 15th October, 2013

S.O. 2542.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby re-nominates Shri Nagi Reddy Venkata Ramana Reddy (DoB: 21.06.1952) as part-time non-official Director on the Board of Directors of Andhra Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 6/36/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 17 अक्टूबर, 2013

का०आ० 2543.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9 के उप-खंड (1) और (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्द्वारा, कार्पोरेशन बैंक के प्रबंधक श्री एकनाथ बालिगा (जन्म तिथि: 01.01.1959) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा उनके कार्पोरेशन के अधिकारी बने रहने तक या अगले आदेशों तक, इनमें से जो भी पहले हो, कार्पोरेशन बैंक के निदेशक मंडल में अधिकारी कर्मचारी निदेशक के रूप में नियुक्त करती है।

[फा० सं० 6/21/2012-बीओ- I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 17th October, 2013

S.O. 2543.— In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) & (2) of clause 9 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Shri Ekanath Baliga (DoB: 01.01.1959) Manager, Corporation Bank, as Officer Employee Director on the Board of Directors of Corporation Bank for a period of three years, from the date of notification of his appointment or until he ceases to be an officer of the Corporation Bank, or until further orders, whichever is earlier.

[F.No. 6/21/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 4 नवम्बर, 2013

का०आ० 2544.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3(ज) और (3क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री बोनाम वेंकट भास्कर (जन्म तिथि: 12.05.1971) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, कार्पोरेशन बैंक के निदेशक मंडल में अंश-कालिक गैर-सरकारी निदेशक के रूप में नियुक्त करती है।

[फा० सं० 6/23/2013-बीओ- I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 4th November, 2013

S.O. 2544.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri Bonam Venkata Bhaskar (DoB: 12.05.1971) as part-time non-official Director on the Board of Directors of Corporation Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 6/23/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 8 नवम्बर, 2013

का०आ० 2545.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्द्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खण्ड (ग) के उपखण्ड (i) के उपबंध आईडीबीआई बैंक पर लागू नहीं होंगे, जहां तक उनका संबंध आईडीबीआई बैंक के अध्यक्ष एवं प्रबंध निदेशक श्री एम०एस० राघवन को आईडीबीआई फेडरल लाइफ इंश्योरेंस कंपनी लि० के बोर्ड में निदेशक के रूप में नामित किए जाने से है।

[फा० सं० 13/9/2013-बीओ- I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 8th November, 2013

S.O. 2545.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to IDBI Bank in so far as it relates to the nominations of M.S. Raghavan, Chairman & Managing Director of the Bank as Director on the Board of IDBI Federal Life Insurance Company Ltd. (IDBI Federal).

[F.No. 13/9/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 8 नवम्बर, 2013

का०आ० 2546.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खंड 8 के उपखंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सिडबी के अध्यक्ष एवं प्रबंध निदेशक, श्री सुशील महनोट (जन्म तिथि: 19.09.1956) को उनके द्वारा पदभार ग्रहण करने की तारीख से 30.09.2016 तक अर्थात् उनके द्वारा अधिवर्षिता की आयु प्राप्त कर लेने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, बैंक ऑफ महाराष्ट्र के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा० सं० 4/4/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 8th November, 2013

S.O. 2546.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Sh. Sushil Muhnot (DoB: 19.09.1956), Chairman & Managing Director, SIDBI as Chairman and Managing Director, Bank of Maharashtra, from the date of his taking over the charge of the post and upto 30.09.2016, *i.e.* the date of his superannuation or until further orders, whichever is earlier.

[F.No. 4/4/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2547.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3(ज) और (3क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री चिन्नैया (जन्म तिथि: 01.06.1958) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन ओवरसीज बैंक के निदेशक मंडल में अंश-कालिक गैर-सरकारी निदेशक के रूप में नियुक्त करती है।

[फा० सं० 6/19/2013-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 13th November, 2013

S.O. 2547.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri Chinnaiah (DoB: 01.06.1958) as part-time Non-official Director on the Board of Directors of Indian Overseas Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F.No. 6/19/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 21 नवम्बर, 2013

का०आ० 2548.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 (ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्रीमती आराधना मिश्रा (जन्म तिथि 20.04.1974) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पंजाब नेशनल बैंक के निदेशक मण्डल में अंश-कालिक गैर-सरकारी निदेशक नामित करती है।

[फा० सं० 6/28/2013-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 21st November, 2013

S.O. 2548.—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Smt. Aradhana Misra (DoB: 20.04.1974) as part-time non-official director on the Board of Directors of Punjab National Bank for a period of three years, from the date of notification of her appointment or until further orders, whichever is earlier.

[F.No. 6/28/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 25 नवम्बर, 2013

का०आ० 2549.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 9 के उप-खंड (1) और (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, आंध्रा बैंक के एकल खिड़की परिचालक-ख (सिंगल विंडो ऑपरेटर-बी), श्री थमरैसेलवन (जन्म तिथि: 12.08.1959) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा उनके आंध्रा बैंक के कर्मकार कर्मचारी बने रहने तक या अगले आदेशों तक, इनमें से जो भी पहले हो, आंध्रा बैंक के निदेशक मंडल में कर्मकार कर्मचारी निदेशक के रूप में नियुक्त करती है।

[फा० सं० 6/24/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 25th November, 2013

S.O. 2549.—In exercise of the powers conferred by clause (e) of Sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with Sub-clause (1) & (2) of Clause 9 of The Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby appoints Shri K. Thamaraiselvan (Date of Birth : 12.08.1959), Single Window Operator-B, Andhra Bank as Workmen Employee Director on the Board of Directors of Andhra Bank for a period of three years with effect from the date of notification of his appointment or until he ceases to be a Workmen Employee of Andhra Bank or until further orders, whichever is the earliest.

[F.No. 6/24/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा यूनिट)

नई दिल्ली, 18 नवम्बर, 2013

का०आ० 2550.—केन्द्रीय सरकार, राजभाषा (संघ के शासीकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत केन्द्रीय विद्यालय संगठन के 1 क्षेत्रीय कार्यालय तथा 8 केन्द्रीय विद्यालयों को, ऐसे कार्यालयों के रूप में,

जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

1. केन्द्रीय विद्यालय संगठन, क्षेत्रीय कार्यालय, ईबी ब्लॉक लबोनी, सेक्टर-1, साल्ट लेक, कोलकाता-700064
2. केन्द्रीय विद्यालय, दतिया, राजघाट कॉलोनी, दतिया (मध्य प्रदेश)-475661
3. केन्द्रीय विद्यालय, ललितपुर, बी०टी०सी० हॉस्टल, जिला शिक्षा एवं प्रशिक्षण संस्थान परिसर, ललितपुर (उत्तर प्रदेश) - 284403
4. केन्द्रीय विद्यालय सीटीपीपी, छबड़ा, मोतीपुरा चौक, छबड़ा (राजस्थान)-325220
5. केन्द्रीय विद्यालय क्र० 1, (द्वितीय पाली), शक्ति नगर, ग्वालियर (मध्य प्रदेश)-474001
6. केन्द्रीय विद्यालय बांरा, कोटा रोड, राजस्थान-325205
7. केन्द्रीय विद्यालय, पो० रंगिया, जिला - कामरूप, आसाम - 781354
8. केन्द्रीय विद्यालय, सेवक रोड, पो० सालुगारा, जिला-जलपाईगुड़ी, पश्चिम बंगाल-734008
9. केन्द्रीय विद्यालय, मंगलदै, रंगामती मौजा, ब्लॉक चौक, दरंग, असम-784125

[सं० 11011-1/2013-रा०भा०ए०]

अनन्त कुमार सिंह, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

(O. L. UNIT)

New Delhi, the 18th November, 2013

S.O. 2550.—In pursuance of sub. rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies 1 Regional Office and 8 Kendriya Vidyalayas of Kendriya Vidyalaya Sangathan under the Ministry of Human Resource Development, (Department of School Education & Literacy) as offices whose more than 80% members of the staff have acquired working knowledge of Hindi:—

1. Kendriya Vidyalaya, Sangathan Regional Office, EB Block, Laboni, Sector-1, Salt Lake, Kolkata-700064.

2. Kendriya Vidyalaya, Datia, Rajghat Colony, Datia (Madhya Pradesh)-475661
3. Kendriya Vidyalaya Lalitpur, BTC Hostel, DIET Campus, Lalitpur (Uttar Pradesh)-284403
4. Kendriya Vidyalaya, CTPP, Motipura Chouki, Chhabra (Rajasthan)-325220
5. Kendriya Vidyalaya, No. 1, (Second Shift), Gwalior, Shaktinagar, Gwalior (Madhya Pradesh)-474001
6. Kendriya Vidyalaya, Baran Kota Road, Baran (Rajasthan)-325205
7. Kendriya Vidyalaya, Rangia, P.O. Rangia, Distt. Kamrup, Assam-781354
8. Kendriya Vidyalaya, Sevoke Road, P.O. Salugara, Distt. Jalpaiguri, West Bengal-734008
9. Kendriya Vidyalaya, Mangaldai Rangamati Mauza, Block Chowka, Mangaldai, Darrang, Assam-784125

[No. 11011-1/2013-O.L.U.]

ANANT KUMAR SINGH, Jt. Secy.

(स्कूल शिक्षा और साक्षरता विभाग)

(एनएलएम-IV अनुभाग)

नई दिल्ली, 20 नवम्बर, 2013

का०आ० 2551.—भारत सरकार की अधिसूचना सं० एफ० 46-3/2008-ए०ई०-4/एनएलएम-4 दि० 31.05.2010 के माध्यम से गठित राष्ट्रीय साक्षरता मिशन प्राधिकरण (एनएलएमए) की कार्यकारिणी समिति की अवधि और 31.05.2013 तक इसकी बढ़ाई हुई अवधि समाप्त होने के पश्चात् और भारत सरकार के संकल्प सं० एफ०-9-5/87-ए०ई०-1 दि० 20.06.1988 (पुनः संकल्प सं० एफ० 9-18/94-ए०ई०-1 दि० 13.12.1994, एफ० 9-7/97-ए०ई०-1 दि० 21.04.1997, एफ० 14-2/2004-ए०ई०-1 दि० 02.09.2004 के माध्यम से संशोधित) के अनुच्छेद 4 में प्रदत्त शक्तियों का प्रयोग करते हुए, सक्षम प्राधिकारी के अनुमोदन सहित एनएलएमए की कार्यकारिणी समिति का पुनर्गठन करने का निर्णय लिया गया है। अब इस समिति में निम्नलिखित सदस्य होंगे:

(क) सचिव, अध्यक्ष
स्कूल शिक्षा और साक्षरता विभाग,
मानव संसाधन विकास मंत्रालय,
भारत सरकार, नई दिल्ली।

(ख) पदेन सदस्य

1. सचिव,
स्वास्थ्य और परिवार कल्याण विभाग,
स्वास्थ्य और परिवार कल्याण मंत्रालय,
भारत सरकार।

2. सचिव,
ग्रामीण विकास विभाग,
ग्रामीण विकास मंत्रालय,
भारत सरकार।
3. सचिव,
पंचायती राज विभाग,
पंचायती राज मंत्रालय,
भारत सरकार।
4. सचिव,
महिला और बाल विकास मंत्रालय,
भारत सरकार।
5. सचिव,
युवा कार्य विभाग,
युवा कार्य और खेल मंत्रालय,
भारत सरकार।
6. सचिव,
युवा कार्य विभाग,
युवा कार्य और खेल मंत्रालय,
भारत सरकार।
7. सचिव,
सामाजिक न्याय और अधिकारिता मंत्रालय,
भारत सरकार।
8. सचिव,
कृषि और सहकारिता विभाग
कृषि मंत्रालय,
भारत सरकार।
9. सचिव,
पशुपालन एवं डेयरी विभाग,
कृषि मंत्रालय, भारत सरकार।
10. संयुक्त सचिव और वित्तीय सलाहकार,
मानव संसाधन विकास मंत्रालय,
भारत सरकार, नई दिल्ली।
11. सलाहकार (शिक्षा),
योजन आयोग,
भारत सरकार, नई दिल्ली।
12. अध्यक्ष,
राष्ट्रीय मुक्त शिक्षा संस्थान (एनआईओएस),
नोएडा, (उ०प्र०)।
13. निदेशक,
प्रौढ़ शिक्षा निदेशालय (डीएई),
भारत सरकार, नई दिल्ली।

(ग) गैर-सरकारी सदस्य

1. कुलपति, इंदिरा गांधी राष्ट्रीय मुक्त विश्वविद्यालय
(आईजीएनओयू), नई दिल्ली।
2. कार्यक्रम सलाहकार, राष्ट्रीय सेवा योजना (एनएसएस)
युवा कार्य और खेल मंत्रालय, नई दिल्ली।

(घ) राज्य-संसाधन केन्द्रों (4) के प्रतिनिधि

1. निदेशक, एसआरसी, हिमाचल प्रदेश
2. निदेशक, एसआरसी, हैदराबाद
3. निदेशक, एसआरसी, इंदौर
4. निदेशक, एसआरसी, शिलाँग

(ङ) जन-शिक्षण संस्थानों (3) के प्रतिनिधि

1. निदेशक, जेएसएस, नई दिल्ली
2. निदेशक, जेएसएस, इडुक्की
3. निदेशक, जेएसएस, इलाहाबाद

(च) राज्य साक्षरता मिशन प्राधिकरणों (5) के सदस्य/सचिव

1. सदस्य सचिव, छत्तीसगढ़
2. सदस्य सचिव, नागालैण्ड
3. सदस्य सचिव, पश्चिम बंगाल
4. सदस्य सचिव, महाराष्ट्र
5. सदस्य सचिव, कर्नाटक

(छ) सदस्य सचिव

संयुक्त सचिव (ई) और पदेन महानिदेशक,
राष्ट्रीय साक्षरता मिशन प्राधिकरण,
स्कूल शिक्षा और साक्षरता विभाग,
मानव संसाधन विकास मंत्रालय।

2. कार्यकारिणी समिति का कार्य-काल, इस अधिसूचना की तारीख से दो वर्ष की अवधि के लिए होगा।

3. कार्यकारिणी समिति के गैर-सरकारी सदस्य भारत सरकार के नियमों के अनुसार यात्रा और दैनिक भत्ता प्राप्त करने के लिए हकदार होंगे।

[सं. एफ-46-3/2008-ईई-4/एनएलएम-4]

जगमोहन सिंह राजू, संयुक्त सचिव

(Department of School Education and Literacy)

(NLM-IV Section)

New Delhi, the 20th November, 2013

S.O. 2551.—On expiry of the term of the Executive Committee of the National Literacy Mission Authority (NLMA) constituted *vide* Government of India's Notification No. F. 46-3/2008-A.E.-4/NLM-4 dated 31.05.2010 and its extended term till 31.05.2013 and in exercise of powers delegated in para 4 of Government of India Resolution No. F. 9-5/87-AE-I dated 20.6.1988 (modified further *vide* Resolution No. F. 9-18/94-AE-I dated 13-12-1994, F. 9-7/97-AE-I dated 21.4.1997, F.14-2/2004-AE. I dated 2.9.2004), it has been decided with the approval of the competent authority to reconstitute the Executive Committee of the NLMA with the following members:

A. Secretary, Chairperson
Department of School Education & Literacy
Ministry of Human Resource Development,
Government of India, New Delhi.

B. Ex-Officio Members

1. Secretary,
Department of Health & Family Welfare,
Ministry of Health & Family Welfare,
Government of India.
2. Secretary,
Department of Rural Development,
Ministry of Rural Development,
Government of India.
3. Secretary,
Department of Panchayati Raj,
Ministry of Panchayati Raj,
Government of India.
4. Secretary,
Ministry of Woman & Child Development,
Government of India.
5. Secretary,
Department of Youth Affairs,
Ministry of Youth Affairs & Sports,
Government of India.
6. Secretary,
Department of Sports,
Ministry of Youth Affairs & Sports,
Government of India.
7. Secretary,
Ministry of Social Justice & Empowerment,
Government of India.
8. Secretary,
Department of Agriculture & Cooperation,
Ministry of Agriculture,
Government of India.

9. Secretary,
Department of Animal Husbandry & Dairying,
Ministry of Agriculture, Government of India.
10. Joint Secretary & Financial Adviser,
Ministry of Human Resource Development,
Government of India, New Delhi.
11. Adviser (Education),
Planning Commission,
Government of India, New Delhi.
12. Chairman,
National Institute of Open Schooling (NIOS),
Noida (U.P.)
13. Director,
Directorate of Adult Education (DAE),
Government of India, New Delhi.

C. Non-Official Members

1. Vice-Chancellor, Indira Gandhi National Open University (IGNOU), New Delhi.
2. Programme Adviser, National Service Scheme (NSS), Ministry of Youth Affairs & Sports, New Delhi.

D. Representatives of States Resource Centres (4)

1. Director, SRC, Himachal Pradesh
2. Director, SRC, Hyderabad
3. Director, SRC, Indore
4. Director, SRC, Shillong

E. Representatives of Jan Shikshan Sansthan (3)

1. Director, JSS, New Delhi.
2. Director, JSS, Idukki
3. Director, JSS, Allahabad

F. Members/Secretaries of SLMAs (5)

1. Member Secretary, Chattisgarh
2. Member Secretary, Nagaland
3. Member Secretary, West Bengal
4. Member Secretary, Maharashtra
5. Member Secretary, Karnataka

G Member Secretary

Joint Secretary (AE) & Ex-Officio Director General,
National Literacy Mission Authority, Department
of School Education & Literacy, Ministry of
Human Resource Development.

2. The term of the Executive Committee will be for a period of two years from the date of this Notification.

3. The Non-official Members of the Executive Committee shall be entitled to travelling and daily allowance as per the Rules of the Government of India.

[No. F. 46-3/2008-AE-4/NLM-4]

JAGMOHAN SINGH RAJU, Jt. Secy.

नागर विमानन मंत्रालय

(एएआई अनुभाग)

नई दिल्ली, 22 नवम्बर, 2013

का०आ० 2552.—भारतीय विमानपत्तन प्राधिकरण अधिनियम, 1994 (1994 का 55) के तहत शक्तियों का प्रयोग करते हुए केन्द्र सरकार, एतद्वारा, श्री आलोक सिन्हा, संयुक्त सचिव, नागर विमानन मंत्रालय को तत्काल प्रभाव से श्री अनिल श्रीवास्तव, संयुक्त सचिव के स्थान पर भारतीय विमानपत्तन प्राधिकरण बोर्ड के अंशकालिक सदस्य के रूप में नियुक्त करती है।

[सं० एवी० 24015/5/2013-एएआई]

एस० वी० रमणा, अवर सचिव

MINISTRY OF CIVIL AVIATION

(AAI Section)

New Delhi, 22nd November, 2013

S.O. 2552.—In exercise of the powers conferred under Section 3 of the Airports Authority of India Act, 1994 (No. 55 of 1994), the Central Government hereby appoints Shri Alok Sinha, Joint Secretary, Ministry of Civil Aviation, as part-time Member on the Board of Airports Authority of India vice Shri Anil Srivastava, Joint Secretary with immediate effect.

[No. AV. 24015/5/2013-AAI]

S. V. RAMANA, Under Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 22 नवम्बर, 2013

का०आ० 2553.—केन्द्रीय सरकार, राजभाषा (संच के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987, 2007

तथा 2011) के नियम 10(04) के अनुसरण में मुख्य महाप्रबंधक, उत्तरी दूरसंचार परिमंडल, नई दिल्ली के प्रशासनिक नियंत्रणाधीन कार्यालयों यथा—(क) उप महाप्रबंधक, दूरसंचार परियोजना, वाराणसी, (ख) उप महाप्रबंधक, दूरसंचार परियोजना, जम्मू तथा (ग) उप महाप्रबंधक, दूरसंचार परियोजना, आगरा जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से लागू होगी।

[सं० ई 11016/01/2009-राजभाषा]

भारत भूषण कौरा, संयुक्त सचिव

Jammu and (c) Office of the Deputy General Manager, Telecom Circle, Agra under the administrative control of Chief General Manager, North Telecom Circle, New Delhi, where more than 80% staff have acquired working knowledge of Hindi.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[No. E-11016/1/2009-O.L.]

BHARAT BHUSHAN KAURA, Jt. Secy

**MINISTRY OF COMMUNICATIONS AND
INFORMATION TECHNOLOGY**

(Department of Telecommunications)

New Delhi, the 22nd November, 2013

S.O. 2553.—In pursuance of rule 10(4) of the Official Languages (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the (a) Office of the Deputy General Manager, Telecom Circle, Varanasi, (b) Office of the Deputy General Manager, Telecom Circle,

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 26 नवम्बर, 2013

का०आ० 2554.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं०	भाग	खण्ड	वर्ष
1	2	3	4	5	6	7	8	9
1.	3974989	07/08/2013	मॉ कृपा इण्डस्ट्रीज, सर्वे सं० 153, उमिया इण्डस्ट्रियल इस्टेट, गाला सं० 04/05, आश्रम राजिवली के आगे, भोयदापाडा, बसई पूर्व, जिला-थाणे 401208	ढलवॉ एल्युमिनियम बर्तन	1660			2009
2.	3976084	06/08/2013	के०पी० इण्डस्ट्रीज, यूनिट सं० 2, शीतल इण्डस्ट्रियल कॉम्प्लेक्स सं० 3, क्लासिक स्टिप्स के पीछे, चिंचपाडा, बालिव रोड, बसई (पूर्व), जिला : थाणे 401208	ढलवॉ एल्युमिनियम बर्तन	1660			2009
3.	3976286	08/08/2013	प्राईम इण्डस्ट्रीज, प्लॉट सं० 10, गट सं० 256, विलेज : चहाडे, मनोर रोड, तालुका : पालघर, जिला : थाणे 401404	ढलवॉ एल्युमिनियम बर्तन	1660			2009

1	2	3	4	5	6	7	8	9
4.	3989093	26/08/2013	लक्ष्मी इण्डस्ट्रीज युनिट सं० 6, बिल्डिंग सं० 5/3 बी, राजप्रभा उद्योग नगर, गोलानी, बालिव, बसई (पूर्व), जिला : थाणे-401208	ढलवॉ एल्युमिनियम बर्तन	1660			2009
5.	3982382	08/08/2013	टर्बो मेटल प्रा० लि० प्लॉट सं० 36, 39/ए-7, 39/ए-8-1, 39/3/3/2 (पीटी), विलेज : खाडिवली, मनोर रोड, तालुका : वाडा, जिला : थाणे 421303	कंक्रीट प्रबलन टीमटी के लिए उच्च शक्ति विरूपित इस्पात सरिए एवं तार	1786			2008
6.	3982383	16/08/2013	संघवी फर्नीचर प्रा० लिमिटेड प्लॉट सं० 1 एवं 2, इक्जिम इण्डस्ट्रियल इस्टेट, विलेज : होनद, तालुका : खालापुर, ताकड़ आदोशी रोड, खोपोली, जिला : रायगढ़ 421203	बुडन फलस डोर शटर ठोस कोर टाइप : भाग 1 प्लाई बुड फेस पैनल	2202	1		1999
7.	3976185	06/08/2013	अश्वमेध इंजीनियर्स एण्ड फॉब्रिकेटर्स 37, महादेव इण्डस्ट्रियल इस्टेट, शील पनबेल रोड, गोवर्धन होटल के पीछे, गोठेघर, नवी मुंबई-400612	पानी और जल मलजल के लिए इस्पात पाईप	3589			2001
8.	3982281	08/08/2013	मेसर्स पेरीक्लेव 63ए, पहला माला, कान्दीवाली को-ऑपरेटिव इण्डस्ट्रियल इस्टेट, चारकोप, कान्दीवाली (पश्चिम), मुंबई 400067	क्षैतिज बेलनाकार और क्षैतिज आयताकार मप निर्जमक दाब टाइप (अस्पताल और फार्मास्यूटिकल प्रयोग के लिए)	3829	1		1999
9.	3981683	19/08/2013	मेसर्स टोंग आई होसिंग लाईट इण्डस्ट्रियल प्रा० लि० बिल्डिंग ई-15/ए, गाला सं० 9, बिल्डिंग ई-9, गाला सं० 13/14, कृष्णा कॉम्प्लेक्स, हरिहर कॉर्पोरेशन के सामने, दापोडे बिलेज, मानकोली, भिवण्डी, जिला : ठाणे 421302	स्कूटर और मोटरसाईकिल सवारों के लिए सुरक्षा हेलमेट	4151			1993
10.	3986794	21/08/2013	महाराष्ट्र सीमलेस लिमिटेड पाईप नगर, विलेज : सुकेली, एनएच 17 बीकेजी रोड, तालुका : रोहा, जिला : रायगढ़ 402126	संरचना उपयोग के लिए हॉलो इस्पात सेक्शन	4923			1997
11.	3975082	07/08/2013	मेसर्स श्री साईराम प्लास्टिक एण्ड इरीगेशन गट सं० 2016/3, नसीराबाद - उमाला रोड, नसीराबाद, जिला : जलगाँव 425309	पेयजल आपूर्ति के लिए अप्लैस्टिकित पीवीसी पाईप	4985			2000

1	2	3	4	5	6	7	8	9
12.	3975991	07/08/2013	मेसर्स योगी प्लास्ट जी-90, एमआयडीसी जलगांव-425003	पेयजल आपूर्ति के लिए अप्लैस्टिकित पीवीसी पाईप	4985			2000
13.	3984689	23/08/2013	मेसर्स पूजा इण्डस्ट्रिज 32, दमन इण्डस्ट्रियल इस्टेट, सोमनाथ मंदिर के पीछे, दाभेल, दमन, दमन एवं दीव 396210	जल शौचालयों और मूत्रालयों के लिए प्लास्टिक प्रधावन टंकियाँ	7231			1994
14.	3977490	13/08/2013	मेसर्स मधुर प्लास्ट शेड सं० 7, बीके सं० 1035 के सामने, राधाबाई चौक, उल्हासनगर, जिला : ठाणे 421003	विद्युत संस्थापनों के लिए नलिकाएँ भाग 3 विद्युत संस्थापनों के लिए विद्युतरोधी सामग्री के दृढ़ सादे नलिकाएँ	9537	3		1983
15.	3983586	20/08/2013	द इंडियन हयुम पाइप कं० लि० गट नं० 57, नंदाले खुर्द, नंदाले फाटा, धुले जलगांव हाइवे, (एनएच 6), जिला : धुले 424301	अस्तर व लेपन वाले सरिए/तार से लिपटे हुए इस्पात के बेलनाकार पाइप (विशेष सहायकांग सहित)	15155			2002
16.	3993387	10/09/2013	युरो डेकोर प्रा० लि० यूनिट-II 265/6, देमानी रोड, दादरा गाँव, दादरा और नगर हवेली, सिलवासा 396191	विनिर्जड डेकोरेटिव प्लायवुड आकार	1328			1996
17.	2801347	25/09/2013	श्रीजी वुड क्राफ्ट प्रा० लि० सर्वे सं० 215/2, सुरंगी वेलुगाम रोड, वेलुगाम गाँव, सिलवासा 396230	ब्लॉक बोर्ड	1659			2004
18.	3997395	17/09/2013	सुमित स्टील शुभ इण्डस्ट्रियल इस्टेट, गाला सं० 31, सेक्टर सं० 2, गोराई पाडा, वसई (पूर्व), जिला : ठाणे 401208	ढलवाँ एल्यूमिनियम बर्तन	1660			2009
19.	3997294	11/09/2013	एलिगंट कास्टिंग प्रा० लि० प्लॉट सं० 194/1/2, अथल गाँव, सिलवासा 396230	सामान्य संरचना प्रयोजनों के लिए इस्पात में पुनः रोलिंग हेतु कार्बन इस्पात के ढलित बिलेट इंगोट्स, बिलेट्सए ब्लमस और स्लैब्स	2830			2012
20.	3999504	16/09/2013	श्याम इंगोट्स प्रा० लि० प्लॉट नं० 29/30/31, गर्व्हमेंट इण्डा इस्टेट, खादोली, दादरा और नगर हवेली, सिलवासा 396230	सामान्य संरचना प्रयोजनों के लिए इस्पात में पुनः रोलिंग हेतु कार्बन इस्पात के ढलित बिलेट इंगोट्स, बिलेट्सए ब्लमस और स्लैब्स	2830			2012

1	2	3	4	5	6	7	8	9
21.	3999605	16/09/2013	श्याम इंगोस्ट प्रा० लि० प्लॉट नं० 29/30/31, गर्व्हमेंट इण्ड इस्टेट, खादोली, दादरा और नगर हवेली, सिलवासा 396230	सामान्य संरचना प्रयोजनों के लिए इस्पात में पुनः रोलिंग हेतु कार्बन इस्पात के ढलित बिलेट इंगोट्स, बिलेट्सए ब्लमस और स्लैब्स	2830			2012
22.	2803452	25/09/2013	खन्ना इण्डस्ट्रियल पाइप्स प्रा० लि० यूनिट-II सर्वे नं० 27/1-सी, विलेज : आसनगाव, तालुका : शहापूर, जिला : थाणे 421604	जल और मलजल हेतु इस्पात पाईप (168.3 से 2540 मिमी बाह्य व्यास)	3589			2001
23.	2803351	26/09/2013	भाग्यश्री पॉलीमर्स प्राइवेट लिमिटेड गट सं० 46/3/ए, उमाला, उमाला - नसीराबाद रोड, अट : उमाला, पोस्ट : धनवाड, जिला : जलगाँव 425003	पेयजल आपूर्ति के लिए अप्लैस्टिकित पीवीसी पाईप	4985			2000
24.	3997193	11/09/2013	किसान मोलिंग लिमिटेड सर्वे सं० 34/1/1, सायली रोड, उमरकुई गाँव, पेपर प्रोडक्ट्स लि० के सामने सिलवासा - 396230	जलशौचालयों और मूत्रालयों के लिए प्लास्टिक प्रधावन	7231			1994
25.	2800951	23/09/2013	रेनबो प्लास्टिक्स इंडिया लिमिटेड सर्वे सं० 256/1, दादरा गाँव, जैन मंदिर के नजदीक, दादरा और नगर हवेली 396230	विद्युत संस्थापनों के लिए तनाव और वाहिनी पद्धति: भाग 2 दिवारों एवं सिलिंग पर लगाने के लिए वाच्छित केबल तनन और वाहिनी पद्धति	14927	2		2001
26.	2807662	03/10/2013	खन्ना इण्डस्ट्रियल पाइप्स प्रा० लि० यूनिट-II सर्वे नं० 27/1-सी, विलेज : आसनगाव, तालुका : शहापूर, जिला : थाणे 421604	मृदु इस्पात नलिकाएँ, नलिकायुक्त और अन्य ढलवाँ इस्पात फिटिंग-विशिष्ट-भाग 1, मृदु इस्पात नलिकाएँ	1239	1		2004
27.	2807763	11/10/2013	इनटाइम फायर अप्लाएंसस प्लॉट सं० डी-24/6, टीटीसी इण्ड एरिया, एमआयडीसी, तुर्भे, नवी मुंबई, जिला : थाणे 400705	अग्निशामक, कार्बन डाईआक्साईड टाइप (सुबाह्य और टॉली माउण्टेड)	2878			2004
28.	2808361	09/10/2013	लॉयड्स लाइन पाइप्स लिमिटेड एम-1, एडिशनल एमआयडीसी, कुदावली गाँव, मुरबाड, जिला : ठाणे 421401	यांत्रिकी और सामान्य अभियांत्रिकी प्रयोजनों के लिए इस्पात नलिकाएँ	3601			2006

1	2	3	4	5	6	7	8	9
29.	2808462	10/10/2013	भुषण स्टील लिमिटेड विलेज निफान और सावरोली, (खोपोली के नजदीक), तालुका : खालापुर, जिला : रायगढ़ 410203	संरचना इस्पात के लिए खोखला इस्पात सेक्शन	4923			1997
30.	2807561	10/10/2013	खन्ना इण्डस्ट्रियल पाइप्स प्रा० लि० प्लॉट सं० 216, खातीबली गाँव, तालुका : शहापुर, जिला : ठाणे 421604	विद्युत संस्थापनों के लिए नलिकाएं भाग 2 दृढ़ इस्पात नलिकाएं	9537	2		1981

[सं० केप्रवि/13: 11]

टी० कलैवाणन, वैज्ञानिक 'एफ' एवं प्रमुख (प्रमाणन विभाग II)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 26th November, 2013

S.O. 2554.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (certification) regulations, 1988, the bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have grant effect from the date indicate against each:

SCHEDULE

Sr. No.	CML No.	GOL Date	Licensee Name & Address	IS PRODUCT	IS NO	Part	Sec	Year
1	2	3	4	5	6	7	8	9
1.	3974989	07/08/2013	Maa Krupa Enterprises Survey No. 153, Umiya Indl Estate, Gala No. 04/05, Next to Aashram Rajivali, Bhoydapada, Vasai(E), Distt: Thane-401208	Wrought Aluminium Utensils	1660			2009
2.	3976084	06/08/2013	K.P. Industries Unit No. 2, Sheetal Indl Complex, No. 3 Behind Classic stripes, Chinchpada, Waliv Road, Vasai (East) Distt: Thane-401208	Wrought Aluminium Utensils	1660			2009
3.	3976286	08/08/2013	Prime Industries Plot No. 10, Gut No. 256, Village-Chahade, Manor Road, Tal: Palghar, Distt: Thane-401404	Wrought Aluminium Utensils	1660			2009
4.	3989093	26/08/2013	Laxmi Industries Unit No. 6 Bldg No. 5/3B, Rajprabha Udyog Nagar Golani, Valiv, Vasai (East), Distt: Thane-401208	Wrought Aluminium Utensils	1660			2009

1	2	3	4	5	6	7	8	9
5	3982382	08/08/2013	Turbo Metals Pvt Ltd Plot No. 36, 39/A-7. 39/A-8-1, 39/3/3/2 (PT), Village-Kadivali, Manor Road, Tal: Wada Distt: Thane-421303	High Strength Deformed Steel Bars and Wires For Concrete Reinforcement (TMT Bars)	1786			2008
6	3982483	16.08/2013	Sanghvi Furniture Pvt Ltd Plot No 1 & 2, Exim Indl Estate, Village: Honad, Tal: Khalapur, Takai Adoshi Road, Khopoli, Distt: Raigad-421203	Wooden Flush Door Shutters (Solid core Type): Part 1 Plywood Face Panels	2202	1		1999
7	3976185	06/08/2013	Ashwamedh Engineers & Fabricators 37 Mahadev Indl Estate, Shil Panvel Road, Behind Gowardhan Hotel, Gotheagar, Navi Mumbai-400612	Steel Pipes for Water and Sewage	3589			2001
8	3982281	08/08/2013	Periclave 63-A, First Floor, Kandivali Co-op Indl Estate, Charkop, Kandivali (W) Mumbai-400067	Horizontal Cylindrical and Horizontal Rectangular Steam Sterilizers, Pressure Type (for Hospital and Pharmaceutical use)	3829	1		1999
9	3981683	19/08/2013	Tong I Hosing Light Industrial Pvt Ltd Bldg E-15/A, Gala No. 9, Bldg E-9, Gala No. 13/14, Krishna Complex, Opp: Harihar Corporation, Dapode, Village, Mankoli, Bhiwandi Distt: Thane-421302	Protective Helmets for Scooter and Motorcycle Riders	4151			1993
10	3986794	21/08/2013	Maharashtra Seamless Ltd Pipe Nagar, Village Sukeli, N H 17 BKG Road, Tal Roha, Distt: Raigad-402126	Hollow Steel Sections for Structural use	4923			1997
11	3975082	07/08/2013	Shree Sairam Plastics & Irrigation Gat No. 2016/3, Nashirabad- Umala Road, Nashirabad Distt: Jalgaon - 425309	Unplasticized PVC Pipes for Potable water Supplies	4985			2000
12	3975991	07/08/2013	Yogi Plast G- 90, MIDC, Jalgaon-425003	Unplasticized PVC Pipes for Potable Water Supplies	4985			2000
13	3984689	23/08/2013	Pooja Industries 32, Daman Indl Estate, Behind Somnath Temple, Dabhel, Daman Daman & Diu- 396210	Plastic Flushing Cisterns for Water Closets and Urinals	7231			1994

1	2	3	4	5	6	7	8	9
14	3977490	13/08/2013	Madhur Plast Shed No. 7, Opp:B.K. No. 1035, Radhabai Chowk, Ulhasnagar Distt: Thane-421003	Conduits for Electrical Installations: Part 3 Rigid Plain Conduits of Insulating Materials	9537	3		1983
15	3983586	20/08/2013	The Indian Hume Pipe Co. Ltd Gat No. 57, Nandale Khurd, Nandale Phata, Dhule- Jalgaon Highway (NH 6), Distt: Dhule-424301	Bar/Wire Wraped Steel Cylinder Pipe with Mortarlining and Coating (Including Specials)	15155			2002
16	3993387	10/09/2013	Euro Décor Pvt Ltd, Unit-II 265/6, Demani Road Dadar Village, Dadra and Nagar Haveli Silvassa-396191	Veneered Decorative Plywood	1328			1996
17	2801347	25/09/2013	Shreeji wood Craft Pvt. Ltd. Survey No. 215/2, Surangi Velugam Road, village: Velugam, Silvassa- 396230	Block Boards	1659			2004
18	3997395	17/09/2013	Sumeet Steel Shubh Industrial Estate Gala No. 31, Sector No. 2, Gorai Pada, Vasai(E), Distt: Thane-401208	Wrought Aluminium Utensils	1660			2009
19	3997294	11/09/2013	Elegant Casting Pvt. Ltd Plot No. 194/1/2, Village: Athal, Silvassa-396230	Carbon Steel Cast Billet Ingots, Billets, Blooms and Slabs for Re	2830			2012
20	3999504	16/09/2013	Shyam Ingots Pvt. Ltd. Plot No. 29/30/31, Govt. Indl. Estate, Khadoli, Dadra and Nagar Haveli, Silvassa- 396230	Carbon Steel Cast Billet Ingots, Billets, Blooms and Slabs for re	2830			2012
21	3999605	16/09/2013	Shyam Ingots Pvt. Ltd. Plot No. 29/30/31, Govt. Indl. Estate, Khadoli, Dadra and Nagar Haveli, Silvassa- 396230	Carbon Steel Cast Billet Ingots, Billets, Blooms and Slabs for re	2830			2012
22	2803452	25/09/2013	KHANNA Industrial Pipes Pvt. Ltd-Unit II Survey No. 27/1-C, Village: Asangaon, Tal: Shahapur Distt: Thane-421604	Steel Pipes for Water and Sewage (168.3 to 2540 MM Outside Diameter)	3589			2001
23	2803351	26/09/2013	Bhagta Shree Polymers Private Limited Gat No. 46/3/A, Umala Umala-Nashirabad Road, At: Umala, Post Dhanwad Distt: Jalgaon-425003	Unplasticized PVC Pipes for Potable Water Supplies	4985			2000

1	2	3	4	5	6	7	8	9
24	3997193	11/09/2013	Kisan Mouldings Ltd Survey No. 34/1/1/, Sayli Road, Village: Umarkui, Opp: Paper Products Ltd. Silvassa - 396230	Plastic Flushing Cisterns for Waterclosets And Urinals	7231			1994
25	2800951	23/09/2013	Rainbow Plastics India Ltd Survey No. 256/1. Village Dadra, Near Jain Mandir, Dadra and Nagar Haveli- 396230	Cable Trunking and Ducting Systems for Electrical Installations: Part 2 Cable Trunking and Ducting Systems Intended for Mounting on Walls or Ceiling	14927	2		2001
26	2807662	03/10/2013	Khanna Indsutrial Pipes Pvt. Ltd-Unit-II Survey No. 27/1-c, Village- Asangaon, Taluka-Shahpur, Distt: Thane-421604	Mild Steel Tubes, Tubulars and other Wrought Steel Fittings- Specification- Part 1: Mild Steels Tubes	1239	1		2004
27	2807763	11/10/2013	Intime Fire Appliances Pvt. Ltd. Plot No. D-24/6, T.T.C. Indl. Area,MIDC, turbhe, Navi Mumbai Distt: Thane-400705	Fire Extinguisher, Carbon Dioxide Type (Portable and Trolley Mounted)	2878			2004
28	2808361	09/10/2013	Lloyds Line Pipes Limited M-1, Additional M.I.D.C., Kudavali Village, Murbad, Distt: Thane-421401	Steel Tubes for Mechanical and General Engineering Purposes	3601			2006
29	2808462	10/10/2013	Bhushan Steel Limited Village: Nifan & Savroli (Near Khopoli), Taluka: Khalapur, Distt: Raigad-410203	Hollow Steel Sections For Structural use	4923			1997
30	2807561	10/10/2013	Khanna Indsutrial Pipes Pvt. Ltd. Plot No. 216, Village- Khativali, Taluka-Shahpur, Distt: Thane-421604	Conduits for Electrical Installations: Part 2 Rigid Steel conduits	9537	2		1981

[No. CMD/13:11]

T. KALAIVANAN, Scientist 'F' & Head (MDM-II)

नई दिल्ली, 26 नवम्बर, 2013

का०आ० 2555.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं:—

अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम संबद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1	3784479	प्रिन्स पॉलीमर्स वी-52, एमआयडीसी जलगाव-425003	पेय जल आपूर्ति के लिए अप्लैस्टिकित पीवीसी पाईप	28/08/2013
2	7194175	पिकासों होम प्रोडक्ट पहली मंजिल, प्लॉट नं 16, सर्वे नं 482, चेक पोस्ट के नजदीक, नानी दमण, दमण एवं दीव	ढलवाँ एल्यूमिनियम बर्तन	26/08/2013
3	7822885	हेमरन सेप्टी इंडस्ट्रिज रचना इंडस्ट्रियल इस्टेट, डॉ. पाटील कम्पाउंड, चौदसर, कोपरी, विरार (पूर्व), जिला: थाणे - 401303	अग्नि श्रेणी ए, बी, सी, शमन हेतु शुष्क रासायनिक पावडर	17/09/2013
4	7318571	किसान मोल्टिंग्स लिमिटेड प्लॉट नं 69 और 70 एमआयडीसी, सुदर्शन केमिकल्स लिमिटेड के सामने, रोहा इंड एरिया, धातव जिला: रायगड 402116	पेय जल आपूर्ति के लिए गढ़े पीवीसी फिटिंग भाग 2 सॉकेटों के लिए विशिष्ट अपेक्षाएं	26/09/2013
5	7310959	रिलायबल फायर इंजिनअर्स गाला नं. 10, पदमावती इण्ड. कॉम्प्लेक्स, गणपती पाडा दिघा, इनडल कॉलनी के नजदीक, कलवा, जिला थाणे 400605	अग्निशामक, कार्बन डाई आक्साईड टाइप (सुवाह्य और टॉली माउंटेड)	11/10/2013

[सं. के प्र वि/13/11]

टी. कलैवाणन, वैज्ञानिक 'एफ' एवं प्रमुख (प्रमाणन विभाग-II)

New Delhi, the 26th November, 2013

S.O. 2555.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (certification) regulations, 1988, the bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each:

SCHEDULE

Sr. No.	Licenses No. CM/L No.	Name & Address of the Licensee	Article/Process with relevant Indian Standards covered by the Licences cancelled/suspension	Date of Cancellation
1.	3784479	Prince Polymers V-52, MIDC Jalgaon-425003	Unplasticized PVC Pipes for Portabel water Supplies	28/08/2013

1	2	3	4	5
2.	7194175	Picasso Home Product 1 Floor, Plot No. 16, Survey No. 482, Near Check Post, Nani Damn, Daman & Diu	Wrought aluminium Utensiles	26/08/2013
3.	7822885	Hemratna Safety Industries Rachna Industrial Estate, Dr. patil Compund, Chandsar, Kopri, Virar (East), Distt: Thane-401303	Dry Chemical Powder for Fighting A,B,C, Class Fires	17/09/2013
4.	7318571	Kisan Mouldings Limited Plots No. 69 & 70 MIDC, Opp. Sudarshan Chemicals Ltd. Roha Indl Area, Dhatav Distt: Raigad-402116	Fabricated PVC Fittings For Potable Water Supplies: Part 2 Specific Requirements for Sochets	26/09/2013
5.	7310959	Reliable Fire Engineers Gala No. 10, Padmavati Indl. Complex, Ganpati Pada Digha, Nr. Indal Col, Kalva, Distt: Thane - 400605	Fire Extinguisher, Carbon Dioxide Type (Portable and Trolley Mounted)	11/10/2013

[No. CMD/13:11]

T. KALAIVANAN, Scientist 'F' & Head (MDM-II)

विदेश मंत्रालय

(सी पी वी प्रभाग)

नई दिल्ली, 29 नवंबर, 2013

का०आ० 2556.—राजनयिक और कांसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में केन्द्र सरकार एतद्वारा श्रीमति बबिता भसीन, सहायक को 29 नवम्बर, 2013 से भारत के राजदूतावास, डबलिन, सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं०टी० 4330/01/2006]

आर०के० पेरिन्डिया, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 29th November, 2013

S.O. 2556.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Smt. Babita Bhasin, Assistant, in Embassy of India, Dublin to perform the duties of Assistant Consular Officer with effect from 29th November 2013.

[No. T. 4330/01/2006]

R.K. PERINDIA, Dy. Secy. (Consular)

कोयला मंत्रालय

नई दिल्ली, 26 नवम्बर, 2013

का०आ० 2557.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र में की भूमि में कोयला अभिप्राप्त किए जाने की संभावना है;

उक्त अनुसूची में वर्णित भूमि के अंतर्गत आने वाले क्षेत्र के ब्यौरे रेखांक संख्यांक आरईवी/06/2013, तारीख 17 जुलाई, 2013 का निरीक्षण सेंट्रल कोलफील्डस लिमिटेड (भूमि और राजस्व विभाग), दरभंगा हाउस, रांची-834029 (झारखण्ड) के कार्यालय में या महाप्रबंधक, सेंट्रल कोलफील्डस लिमिटेड, कुजु क्षेत्र, जिला रामगढ़ (झारखण्ड) के कार्यालय में या उपायुक्त, जिला रामगढ़ झारखण्ड या महाप्रबंधक (गन्वेषण प्रभाग) आरआई- (III), केन्द्रीय खान योजना एवं डिजाइन संस्थान, गोंदवाना पैलेस, कांके रोड, रांची (झारखण्ड) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में किया जा सकता है।

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अनुसूची में वर्णित भूमि से कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन के भीतर महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, कुजू क्षेत्र, जिला रामगढ़ (झारखण्ड) या महाप्रबंधक, सेंट्रल कोलफील्ड्स लिमिटेड, भूमि और राजस्व विभाग, दरभंगा हाउस, रांची-834029 (झारखण्ड) के कार्यालय से,—

- (i) धारा 4 की उप धारा (3) के अधीन की गई किसी कार्रवाई से हुई यास सम्भवतः होने वाली किसी क्षति के लिए उक्त अधिनियम की धारा 6 के अधीन प्रतिकर का दावा कर सकेगा; या
- (ii) उक्त अधिनियम की धारा 13 की उप धारा (1) के अधीन पूर्वेक्षण अनुज्ञप्तियों के प्रभावहीन होने की बाबत या उक्त अधिनियम की धारा 13 की उप धारा (4) के खनन पट्टे प्रभावहीन होने के लिए प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उपधारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों की बाबत उपगत व्यय को दर्शित करने के लिए पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को परिदत्त कर सकेगा।

अनुसूची

कुजू खुली खदान परियोजना

जिला रामगढ़ (झारखण्ड)

(रेखांक अनुषंग संख्यांक आरईवी/06/2013,
तारीख 17 जुलाई, 2013)

सभी अधिकार:

ब्लॉक	ग्राम	थाना	थाना संख्या	जिला	क्षेत्र एकड़ में (लगभग)	टिप्पणियां
ए	कुजू	मांडु	154	रामगढ़	77.52	भाग
	पोखरिया	मांडु	121	रामगढ़	111.40	भाग
बी	कुजू	मांडु	154	रामगढ़	1.07	भाग

कुल: 189.99 एकड़ (लगभग)

या 76.91 हेक्टर (लगभग)

सीमा वर्णन:

ब्लॉक-ए

- क-ख-ग रेखा बिन्दु 'क' से आरम्भ होती है ग्राम कुजू में प्लॉट संख्या 50, 146, 50, 148, 160, 158, 154, 156, 165, 266 नाला 165 की सीमा रेखा और प्लॉट संख्या 283 में से होकर गुजरती है और बिन्दु 'ग' पर मिलती है।
- ग-घ रेखा बिन्दु 'ग' वन सीमा ग्राम कुजू में प्लॉट संख्या 283 और प्लॉट संख्या 31 में से होकर गुजरती है और ग्राम पोखरिया में बिन्दु 'घ' पर मिलती है।

घ-ङ रेखा बिन्दु 'घ' ग्राम पोखरिया में अगरिया गडहआ नदी के मध्य रेखा (प्लॉट संख्या 45) में से होकर गुजरती हुई है और बिन्दु 'ड' पर मिलती है।

ड-क रेखा बिन्दु 'ड' ग्राम पोखरिया में प्लॉट संख्या 35, 41, 32, 12, 10, 46 और ग्राम कुजू में प्लॉट संख्या 167, 174, 175, 176, 177, 178, 181, 182, 183, 165, 163, 50 में से होकर गुजरती है और बिन्दु 'क' पर मिलती है।

ब्लॉक-बी

च-छ-ज रेखा बिन्दु 'च' से आरम्भ होती है प्लॉट संख्या 152, 116, 115 में से होकर गुजरती है और ग्राम कुजू में बिन्दु 'ज' पर मिलती है।

ज-च रेखा प्लॉट संख्या 115, 116, 152 में से होकर गुजरती है और ग्राम कुजू के आरंभ बिन्दु 'च' पर मिलती है।

[फा० सं० 43015/07/2013-पी०आर०आई०डब्ल्यू-1]

वी० एस० राणा, अवर सचिव

MINISTRY OF COAL

New Delhi, the 26th November, 2013

S.O. 2557.—Whereas it appears to the Central Government that coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, whereas, the plan bearing number Rev/06/2013, dated the 17th July, 2013 containing details of the areas of land described in the said Schedule may be inspected at the office of the Central Coalfields Limited (Land and Revenue Department), Darbhanga House, Ranchi-834029 (Jharkhand) or at the office of the General Manager, Central Coalfields Limited, Kuju Area, District Ramgarh (Jharkhand), Deputy Commissioner, District Ramgarh, Jharkhand or at the office of the General Manager (Exploration Division), RI-III, Central Mine Planning and Design Institute, Gondwana Palace, Kanke Road, Ranchi (Jharkhand) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700 001.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development), Act, 1957 (20 of 1957), hereinafter referred to as the said Act, the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule.

Any person interested in the land described in the aforesaid Schedule may—

- (i) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or

- (ii) claim compensation under sub-section (1) of section 13 of the said Act in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act, to the office of the General Manager, Central Coalfields Limited, Kuju Area, District Ramgarh (Jharkhand) or General Manager, Central Coalfields Limited, Land and Revenue Department, Darbhanga House, Ranchi-834029 (Jharkhand) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Kuju Opencast Project

District-Ramgarh, Jharkhand

(Plan bearing number Rev/06/2013,
dated the 17th July, 2013)

All Right:

Block	Village	Thana	Thana number	District	Area in acres	Remarks
A	KUJU	MANDU	154	RAMGARH	77.52	PART
	POKHARIA	MANDU	121	RAMGARH	111.40	PART
B	KUJU	MANDU	154	RAMGARH	1.07	PART

Total: 189.99 acres (approximately)
76.91 hectares (approximately)

Boundary description

BLOCK "A"

- A-B-C Line start from point 'A' passes through plot no. 50, 146, 50, 148, 160, 158, 154, 156, 165, 266 boundary line of nalla 165 and plot no. 283 in village kuju and meets at point 'C'.
- C-D Line passes through point 'C' from forest boundary plot no. 283 in village" kuju and plot no. 31 and meets at point 'D' in village pokhariya.
- D-E Line passes through point 'D' from center line of agaria garha nadi (plot no. 45) village Pokharia and meets at point 'E'.
- E-A Line passes through point 'E' plot no. 35, 41, 32, 12, 10, 46 in village Pokharia and plot no. 167, 174, 175, 176, 177, 178, 181, 182, 183, 165, 163, 50 in village kuju and meets at starting point 'A'.

BLOCK "B"

- F-G-H Line start from point 'F' passes through boundary line of plot no. 152, 116, 115 and meets at point 'H' in village kuju.
- H-F Line passes through plot no. 115, 116, 152 and meets at starting point 'F' village Kuju.

[F.No. 43015/07/2013-PRIW-I]

V. S. RANA, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2558.—औद्योगिक विवाद अधिनियम, 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 176/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 प्राप्त हुआ था।

[सं० एल-12012/87/92-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 11th November, 2013

S.O. 2558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 176/92) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12012/87/92-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/176/92

PRESIDING OFFICER: SHRI R.B. PATLE

Smt. Chitra Bai,
Qtr. No. 240/3,
Sarvahara Nagar,
Indore

....Workman

Versus

Regional Manager
State Bank of India (Zone-III),
Hamidia Road, Bhopal

....Management

AWARD

Passed on this 19th day of June, 2013

1. As per letter dated 12-8-92 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/87/92-IR(B-3). The dispute under reference relates to:

"Whether the action of the management of Regional Manager (III), State Bank of India, Zonal office-III, Bhopal in terminating the services of Smt. Chitrabai, Kothari Market, Indore w.e.f. 13-8-1991 was justified? If not, to what relief is the workman entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted Statement of Claim at page 2/1 to 2/5. This case of workman is that she was appointed as watchman from 18-2-88 on daily wages in P.B.D. Branch, Kothari Market. She was paid salary of Rs. 300 per month she was performing different duties, When she worked in place of messenger, She was paid Rs. 15/- extra with her Salary. That no written order of appointment was given to her. On repeated request, she was paid Rs. 400/- per month from June 89, she was not given benefit of settlement dated 22-11-88 between the management and the Union. That the management issued letter dated 24-4-91 asking applications from eligible candidates for interview. On same day, advertisement was published in daily newspaper. Her application was not forwarded by the Branch Manager. Applicant claims that she had completed more than 240 days in one calendar year and more than 270 days in 36 calendar months. Her services were terminated from 13-8-91 without notice. The juniors were continued in service. She had completed 240 days continuous service. The termination of her service is illegal as juniors were continued. On such ground she prays for her reinstatement with consequential benefits.
3. IInd Party management filed Written Statement at Page 8/1 to 8/8. All material contentions of workman are denied. According to the IInd party the workman was engaged on daily wages as coolie at MG Road Branch, Indore. The workman had worked for 18 days in 1998, 46 days in 1989, 123 days each in 1990 & 1991. That was not engaged after 9-8-91. It is further contented that the employee was given contract of

filling water in Branch on contract rate Re. 1/- per tin from June 88 to August 91. She was also engaged in the canteen for canteen work. That she had worked only for 169 days in one year preceding her termination. The Bank had engaged workman on contract basis. Her services ended at end of the day. Her discontinuance doesnot amount to retrenchment. It is covered under exception under Section 2(oo)(bb) of I.D. Act. The IInd party has reiterated all those contentions in Written Statement. It is submitted that the workman had not completed 240 days in calendar year and 270 days during 36 calendar months. violation of Section 25-F, G of I.D. Act is denied. IInd party prays for rejection of the claim of the workman.

4. Considering pleadings on records, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------------------------|
| (i) Whether the action of the management of Regional Manager (III), State Bank of India, Zonal office-III, Bhopal in terminating the services of Smt. Chitrabai, Kothari Market, Indore w.e.f. 13-8-1991 is legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

5. Workman is challenging her termination. Affidavit of her evidence is filed. She has stated on oath that she was working with the IInd party Bank as peon from 18-2-88. She was paid wages. She has stated most of the facts covered in her statement of claim. In her cross-examination, workman denies that she was engaged on daily wages. She was working till 13-8-91. She denies that she worked for 18 days in 1998, 46 days in 1989, 123 days each in 1990 & 1991. The suggestions by counsel for IInd party that she was engaged as per exigency of work is denied by workman. She denies that she was not in continuous employment of IInd party. She claims ignorance about settlement between Union and the management. Workman has not examined any other witness. No documents are produced to establish that she was continuously working in the Bank. Rather documents are produced by management that workman was working as coolie. However the management has also not taken care to prove those documents. The

management filed affidavit of evidence of his witness Shri Anil Jain. He has stated most of the facts stated in Written Statement filed by the management. The workman has not produced copy of application submitted by her for regular appointment, she was not interviewed. There is no satisfactory evidence about completion of 240 days continuous service preceding here termination from 13-8-91 is produced. In absence of such evidence, the action of IInd party management cannot be said illegal. In absence of cogent evidence by workman, the action of the management terminating her services cannot be said illegal. For above reasons, I record my finding in Point No. 1 in Affirmative.

6. In the result, award is passed as under:—

1. There termination of the services of Smt. Chitrabai, by the management of State Bank of India, Zonal Office (III) w.e.f. 13-8-1991 is legal.
2. Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का.आ. 2559.—औद्योगिक विवाद अधिनियम, 1947, (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या 28/98 को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 प्राप्त हुआ था।

[सं. एल-12012/136/97-आई आर (डी यू)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 28/98 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12012/136/97-IR(DU)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, JABALPUR

No. CGIT/LC/R/28/98

Presiding Officer: Shri R.B. Patle

General Secretary,
All India State Bank of Indore Employees Congress,
Hardev Niwas, 9, Sanver Road,
Ujjain (M.P.) Union

Versus

Dy. General Manager,
State Bank of Indore Office,
Kanchanbag,
Indore (MP) Management

AWARD

Passed on this 6th day of September, 2013

1. As per letter dated 13—17/2/98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/136/97/IR/(DU). The dispute under reference relates to:

“Whether the action of the management of State Bank of Indore in terminating the services of Shri Kanhaiyalal Paul w.e.f. 4/2/94 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/7. Case of 1st Party workman is that he was appointed by IInd Party as temporary peon on 7-3-72, he was performing his duties with devotion without any complaints. In 1990, on administrative ground he was transferred from Pardeshpura Branch Colony to Palshikar Colony Indore. That because of family disturbance from 16-11-92, he submitted application for leave and left for Ujjain. Because of family problems/disputes, he did not returned home. That wife of workman had gone to the Branch Manager for enquiry. On advice of Branch Manager, his wife has submitted missing report to Police Station, Indore.

3. Ist Party workman further submits that after the family dispute was claim down, he had returned to Indore. On 14-4-94, he had returned to Indore. On 14-4-94, he had visited residence of the Brance Manager. He explained the reasons of his absence from duty. Branch Manager informed him that he was removed from service. The notice were sent at his residence. The same might not have received by him. He may contact office bearers of the Union. If he produces orders for allowing him to join duty, then only he will be permitted to join duty. The workman further submits that labour is engaged on daily wages for cleaning work and work of drinking water etc. From April 1992, workman has gone to regional office requesting the officers to allow him to join duty. He also met with the Union leaders but his request was not considered with sympathy. That after the

approach from Shri Nagwanshi on his efforts. it was disclosed that the services of Ist party workman were discontinued after receiving notices dated 27-3-93, 26-10-93 as he remained absent from duties. His wife had given missing report about him. The order of voluntary retirement was issued on 21-3-94. Said order was not received by workman. Amount of Provident Fund, Gratuity was also not paid to him. After following conciliation proceeding, the dispute has been referred for adjudication at the instance of National Bank Employees Union. The workman submits that for other employees remaining absent for longer period, any action was not taken against them. That the action for voluntary retirement would be taken by the management if application for leave is not submitted and the workman remained absent for more than 90 days when management is satisfied that the workman has got employment at some other place. he has no intention to discontinue with the working. He prays for setting aside the order.

4. Ist Party workman submits that the had not received any letter or notice with respect to the proposed action for his voluntary retirement. He had performed satisfactory service for more than 20 years. He was transferred from Pardeshpura Branch to Palshikar Colony Branch in 1990. That his date of birth is 2-9-54. He was working in the Bank from 7-9-92 since his age of 18 years. That workman was of 40 year age over looking all those aspects workman is voluntarily retired. On such ground, workman prays for setting the order of his retirement. He prays for his reinstatement with consequential benefits.

5. IInd Party filed Written Statement at Page 8/1 to 8/10. IInd party submits that the Ist party workman is not member of the Natioal Bank Employees Union and the statement of claim is submitted by the General Secretary of said Union is not tenable as Ist party workman was not member of the said Union. The Union relating to the employee has no authority to file dispute in respect of Ist party workman working at Indore. The reference is not tenable. The reference filed against General Manager is not tenable. The statement of claim is not submitted in prescribed proforma as per the rules therefore it is not tenable.

6. IInd Party admits that Ist Party was appointed as permanent peon on 3-2-1975. It is denied that workman was working with devotion without any complaint. It is denied that workman was transferred from Pardeshipur Branch Indore in 1990 to Palshikar colony branch. According to the IInd party, workman was transferred to Palshikar Colony branch on 10-8-91. All other contentions of workman are denied as imaginary. It is denied that his wife had submitted missing report on advice of the Branch Manager. It is denied that notices were sent to workman on 27-3-93, 26-10-93 as he remained absent from duty. The notice were affixed at his residence. The amount of

Provident Fund, Gratuity could not be paid to the workman. He himself is responsible for it. It is denied that in conciliation proceeding IInd party was given any kind of directions by A.I.C, Indore. The Ist party had filed appeal challenging his order of compulsory retirement. The appeal was dismissed on 10-5-96. Workman was informed about said decision on 18-6-96.

7. It is further submitted that Shri Ram Nagwanshi claiming to be General Secretary of Union is forming different organizations claiming himself as office bearers. Statement of claim filed through him is not tenable and the services of workman were terminated following legal procedure. The order of termination of service was served on workman by RPAD. IInd party submits that workman is not entitled to any relief prayed by him.

8. Ist Party filed rejoinder at Page 9/1 to 9/8 denying averments in Written Statement filed by the IInd party. Ist party further pleaded that IInd party has committed offence giving false information, tempering with witnesses etc. IInd party denied notices sent by the Bank. That he was pursuing his grievance with the Union and officers of the Bank but his request was not considered. That other employees remaining absent from duty. Shri Shakti Virendra Singh, Officer, Ramesh Sirsath, peon, Narendra Majhi Peon, Banwant Singh Goud, Clerk, Manohar Singh Peon, Smt. Nahijahan peon, Smt. Sunita Sahare, Cashier, Smt. Krishna Gupta Clerk & Badralal were absent from duty for the period disclosed above their names. About 1-4 years they were not in duty, No action of family retirement were taken against them. Action taken against workman is isolated. Bipartite settlement are not considered properly. Voluntary retirement of his service as per Bipartite Settlement is illegal. Ist party prays for reinstatement with consequential benefits.

9. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the action of the management of State Bank of Indore in terminating the services of Shri Kanhaiyalal Paul w.e.f. 4/2/94 is justified? | Termination of Services of Shri Kanhaiyalal Paul is illegal. |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

10. Though objection is taken by Ist party Union on behalf of workman not to permit appearance to Advocate on behalf of IInd party, IInd party has raised objections that Secretary of Union is not competent to raise dispute on behalf of workman, at the time of hearing argument, both the parties did not press their respective objections.

11. Workman is challenging termination of his service by way of voluntary retirements as per the settlement for his absence from duty. Ist party workman submit that he had submitted have application and because of dispute in family, he had shifted to Ujjain, he had returned back after family dispute is solved. He had gone on 4-2-94 to Bank to join the duty at that time it was disclosed that his services were terminated. Only if he produce orders from officers, he may be allowed to join duty. All those allegations of workman are denied. Workman filed affidavit of his evidence. He has stated that he was appointed as peon in SBI Indore on 7-9-72 and not received any memo warning of penalty. His service was unblemished. He was not intending to took voluntary retirement. He desire to work for maintaining members of his family. That he had not received any show cause notice or letters from IInd party before termination. That after his termination, he is unemployed.

12. In his cross-examination, workman says that he is not prosecuted for any crime. He is retired from service by the bank as he was not attending his duty for 18-19 months. He was in service as per the laws. There was bipartite settlement. He was unable to tell where he was for 18-19 months. He had not correspondence with the Bank. He admits that as he has quarreled with his wife, he left the Bank. His wife has given missing report to the police station. When he had gone to join duty, he was not allowed to join duty as he was absent for 19 months. Any document regarding his missing for 19 months was not produced by him. In his further cross-examination, he says that he was on duty during the period from 2-4-88 to 5-2-92. He admits that he was absent from duty from 16-11-92 to 4-2-94 *i.e.* 1 year 18 months.

13. The management's witness Basant Devbraj in his affidavit of evidence has stated that the statement of claim filed by workman is not proper. It is not tenable. The Union has not submitted proper authority for prosecuting the dispute. That Ist party workman was absent from duty from 16-11-92. Bank had issued notice dated 27-3-93 as the workman remained absent from duty for more than 30 days. IInd letter dated 26-10-93 was sent by the management, no response was received. On 4-2-94, Ist party workman was voluntarily retired as per Para 17-A of Bipartite Settlement dated 10-4-89. That workman was absent for total 445 days. As he remained absent for more than 90 days even after notice, his absence was treated as voluntary retirement. In his cross-examination, management witness says leave register for employees is separately maintained. The documents M-11, M-12 are admitted in evidence on admission of the Ist party. Management's witness claims ignorance whether the notice sent to workman was served or not. However said notice was sent by RPAD. No enquiry was sent against the workman. Public notice was not issued about unauthorized absence of workman. Management's witness claims ignorance whether notice

was issued of the relative of workman. It is denied suggestion that workman was removed from service out of enmity.

14. Documents produced by workman Exhibit W-1 is copy of letter dated 18-6-96 competent officer refused to accept request of workman for joining duty. Exhibit W-2 is copy of letter dated 30-09-96 submitted to ALC by the Dy. General Manager claiming that notices were sent to workman on 27-3-92, 26-10-93 and workman was treated voluntarily retired on 4-2-94. Exhibit W-3 is copy of letter dated 27-3-93, explanation was called for his absence. W-4 is letter dated 26-4-93 calling explanation of workman about his unauthorized absence. Exhibit W-5 is postal acknowledgement but it doesnot bear sign of Ist party. Exhibit W-6 is copy of letter issued to the workman about his unauthorized absence. Exhibit W-7 is copy of letter dated 27-7-93 intending to take action for unauthorized absence of workman. Exhibit W-8 is copy of letter issued for taking action against workman for his absence. Exhibit W-9 is copy of letter dated 25-3-94. Copy of Bipartite settlement is produced at Exhibit W-10. Clause-3 provides different clause for issuing notice to the employee who remains absent for 30 days, notice should be issued by RPAD. Said clause provides if the unauthorized absence is for less than 90 days, notice can be immediately issued if the employee had got reemployed in other place. Clause (d) provides that after explanation is received from the employee about his unauthorized absence, he should be informed that the Bank reserves its righty for taking action as per the rules. Clause (C) provides that if the employee is not joining the duty even after service of notice within 30 days and fails to submit satisfactory explanation, it could be deemed that employee is voluntarily retired. His name from attendance register be deleted. All the papers be sent to the Regional Office for taking appropriate action. The documents produced by management Exhibit M-1 is copy of transfer order dated 5-7-91, workman was transferred to Palshikar Colony branch. M-2 is copy of transfer order. Exhibit M-3 is copy of intimation given to the workman that his request to join duty was not accepted. Exhibit M-4 is copy of letter dated 18-6-96. That request of workman to join duty was not accepted. M-5 is letter given by workman for depositing his salary and bonus amount in his account. Exhibit M-6 is letter dated 9-7-93 given to workman with respect to Hero Lady Cycle. M-7 is notice issued to workman by Court for attachment of salary. M-8 is copy of letter issued by Court for attachment of salary Rs. 600/- per month. Exhibit M-9 is also letter issued by Court for attachment of Rs. 125/- from salary of workman. Those documents are not helpful to decide the legality of termination by Voluntary retirement of the workman.

15. From evidence of the management's witness, service of letters, notice on workman is not established. Only notice sent by RPAD the evidence remained unchallenged. Workman submits that he had submitted application for

leave and remained absent. He was absent from duty for 18-19 months. As per the evidence of workman, there was dispute in the family therefore he had left for Ujjain only after the dispute was settled. He returned back to Indore. Any of the letters were not received by him. He did not get opportunity to accept his absence. The copy of missing report submitted by wife of workman is not produced on record. As per the Bipartite Settlement Exhibit W-10, when the employee remains absent for 30 days, 90 days and management is satisfied that the employee got the employment at other place and he has no intention to work in the Bank, only after said satisfaction, the action for deemed voluntary retirement is to be taken. The evidence of the workman that there was family dispute and because of dispute in the family, he had left Indore and gone to Ujjain remained unchallenged. That the evidence of workman that he has not received letters from the Bank calling his explanation is not shattered in cross-examination. Therefore the action of management in terminating his service under deemed voluntary retirement cannot be said legal.

16. Learned counsel for IInd party Mr. Shrotri relies on ratio held in

"Case of Punjab and Sind Bank and others *versus* Sakattar Singh reported in 2001(1) Supreme Court Cases 214. Their Lordship in above cited case considering termination of service without holding enquiry. Unauthorised absence for 90 or more consecutive days beyond sanctioned period of leave. Under Clause 16 of IV Bipartite Settlement, termination of service in such circumstance, held, is not a punishment for misconduct, but only a recognition of the realities of the situation and doesnot result in violation of principles of natural justice. Therefore no domestic enquiry is necessary. Respondent proceeding on sanctioned leave for three days beginning 16-8-93 but remaining absent unauthorisedly for continuous period of 190 days. Appellant Bank issuing three letters to him directing him to rejoin duty. Bank issuing notice under clause 16 dated 12-3-94 seeking explanation for unauthorized absence. On 4-4-94, respondent submitting joining report to Branch Manager, who not accepting the same, Bank passing order to termination dated 18-4-94. Considering above factual matter, It is held that High Court erred in holding that order of termination was a nullity because of violation of rules of natural justice."

The ratio held above cited case cannot be applied to present case at hand as Bipartite Settlement Exhibit W-10, clause (5) provides when any employee remains absent for

90 days without submitted application for extention of leave or any kind of leave is in balance of the employee, the employee remains absent. When evidence is available disclosing that the employee joined other service, business or employment, notice be issued by RPAD to the employee for joining duties. Such notice be issued by the Manager. Clause (d) provides if satisfactory explanation is received within 30 days period employee be permitted for joining duties reserving the right for taking action. In the evidence of workman discussed above, any of the letters were received by him is not shattered because of family dispute he had gone to Ujjain only after dispute was settled, he returned back to Indore. He was absent from duty for about 18-19 months, even he has not received amount of PF, gratuity etc. The evidence of the workman is cogent, reliable. The evidence adduced by management doesnot show how many leave were in his credit. Without verifying the leave available at credit of workman, without satisfying that workman had joined another service, action of voluntary taken by management cannot be said legal.

17. Next reliance is placed on ratio held in

"Case of Syndicate Bank *versus* General Secretary, Syndicate Bank Staff Association and another reported in 2000(5) SCC 65. Their Lordship held Bank in terms of Bipartite settlement serving notice on him by registered post, requiring him to submit his explanation and to join work within the prescribed time limit of 30 days. The notice further stating that otherwise he would be deemed to have retired, notice sent on correct address, received back with the endorsement "refused". In such circumstances, the Bank held rightly treated the employee to have voluntarily retired from service. Hence termination of his service without holding any departmental enquiry held was not violative of principles of natural justice."

In present case, there is no evidence that letters or notice sent by RPAD were refused, therefore ratio held in above cited case cannot be applied to present case.

18. Next reliance is placed in case of

Indian Iron and Steel Co. Ltd. *versus* Prahlad Singh reported in 2001(1) Supreme Court Cases 424. Their Lordship of the Apex Court held that Section 10, 15 of I.D. Act and question of latches and delay in raising Industrial dispute after long 13 years. No reasonable explanation given for such delay.

In present case, the reference is received on 13-12-1987. The services of workman were terminated on 4-2-94. The delay cannot be so long as was in above cited case. Therefore the reference cannot be outright rejected on ground of delay.

19. Considering the evidence discussed above, the termination of service of Ist party workman by way of voluntary retirement as per Clause 72 of Bipartite Settlement is not legal. I record my finding on Point No. 1 in Negative.

20. In view of my finding on Point No. 1, the termination of services of workman is illegal. Before taking action of deemed voluntary retirement by management, the application for leave submitted by workman was not decided. The different kinds of leave in his account were not calculated. There is no evidence that management of IInd party was satisfied that the workman got employment at some other place or engaged in business etc. The question arises to what relief the workman is entitled to? That he was working as peon in Bank from 7-9-72, he was absent from duty from 16-11-92. He had rendered unblemished service. Management has not produced any document to establish that his service was not satisfactory... Services of workman are terminated without notice, the termination of service deemed voluntary retirement. The requirements are not satisfied by the management, therefore termination of his service is illegal. Evidence of workman shows that he was unemployed, how he is maintaining his family is not disclosed. Management has also not adduced any evidence that the workman is in gainful employment. Considering above aspect, in my considered view, workman is entitled for reinstatement of service with 30% back wages.

21. Accordingly I hold and passed the award as under—

- (1) Action of the management of State Bank of Indore in terminating the services of Shri Kanhaiyalal Paul *w.e.f.* 4/2/94 is illegal.
- (2) IInd party is directed to reinstate workman as peon with 30% back wages.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

कांआ 2560.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केंद्रीय सरकार मध्य रेलवे के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट संदर्भ संख्या 22/2006 को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-41012/165/2005-आईआर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 22/2006 of the Cent. Govt. Indus, Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Central Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41012/165/2005-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, YESHWANTPUR, BANGALORE

DATED : 12th April 2013

PRESENT : SHRI S.N. NAVALGUND,
Presiding Officer

C R No. 22/2006

I Party

Sh. Rajappa,

Since Deceased rep.
by LR's

Smt. Chennamma, Wife,

Shri Ravi Kumar, Son

Shri Ashok, Son

Shri Vijay, Son

Shri Anil, Son

Kum, Preethi, Daughter

S/o Ayyappa, No. 9/12, Near Railway

Station, Bari Nagar, Shahbad Tq.,

Gulbarga District.

Karnataka.

II Party

The Sr. Divisional Personnel
Officer.

Central Railway, O/O D RM.,
Solapur, Maharashtra.

APPEARANCES

I Party : Sh. B S Byre Gowda,
Advocate

II Party : Sh S.R Khamroz Khan,
Advocate

AWARD

1. The Central Government on submission of FOC report by ALCC(C), Bellary in No. 8(02)/2005/RLC/BLY dated 15.09.2005 made this reference for adjudication *vide* Order No. L-41012/165/2005-IR(B-II) dated 22.05.2006 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the Central Railways, Solapur in terminating the services of Shri Rajappa S/o Ayyappa, Ex-Casual labour without complying the mandatory provisions of Industrial Disputes Act, 1947 and also in not providing regular permanent post of Group 'D' to him in the Railways is justified? If not, to what relief the workman is entitled to?"

2. On receipt of the reference registering it in C R 22/2006 when notices were issued to both the sides both entered their appearance through their respective advocate, the I party filed his claim statement on 24.01.2007 and II party filed its Counter Statement on 27.04.2007. Subsequently the wife and five children of I party workman came on record as Legal Representatives reporting that he died on 08.03.2009 leaving behind them as his Legal Representatives.

3. The I party in the claim statement filed by him on 24.01.2007 stated that he had worked continuously for three years (without specifying the years) in the II Party and without compliance of Section 25(f) of ID Act 1947 his service has been orally terminated alleging that he had submitted false school leaving certificate and there after inspite of his repeated requests since his termination was not recalled he who belongs to a poor Scheduled Tribe Family and could not get any alternative job, II Party be directed to provide him Regular Permanent Post of Gr. D with continuation of service and other consequential benefits. He also stated in Para 7 of his claim statement that he has reliably learnt one of his colleague by name Netaji, S/o Kashinath Jadav who was also removed from service has been appointed on regular post in Medical Hospital, Solapur, as Safaiwala and thereby II Party has practiced discrimination and unfair labour practice.

4. In the counter statement filed by the II Party it is contended the I Party workman who had rendered service as Casual Labour from 09.06.1994 to 31.12.1994 for a period of 145 days under Carriage Foreman/Wadi from 12.03.1985 to 31.12.1985 for a period of 295 days under Carriage and Wagon Superintendent, Wadi and from 01.01.1986 to 18.02.1986 for a period of 49 days under Carriage and Wagon Superintendent, Wadi, thereafter, abandoned the job for the reasons best known to him, subsequently, when a notification was issued on 30.06.1999 for consideration of all the eligible and suitable casual labourers the I party workman also submitted his application with all the required documents along with School Leaving Certificate as proof of age and qualification and he was also called for screening and it was found that the school leaving certificate produced by him was false to which effect the Head Master of the concerned school gave in writing that the same was

not issued by the School. It is further contended this fact has been accepted by the I Party workman in his explanation to the ALC(C), Bellary with reference to the application before him producing another school leaving certificate indicating the date of birth as 02.03.1961 and studied upto 6th Std. whereas in the school leaving certificate furnished him with his application the date of birth was shown as 01.06.1959 and having studied upto 8th std. and taking into account this fact the ALC(C), Bellary after calling for the casual labourers who were regularised *vide* notification dated 30.06.1999 who had been considered for appointment to Gr. D Posts submitted the FOC report consequent to which the CG has made this reference for adjudication. Thus the II Party while contending that from 19.02.1986 the I Party workman having abandoned the job on his own there was no termination/retrenchment at all and pursuant to the notification dated 30.06.1999 for considering all the casual and ex-casual labourers for absorption since he produced a false school leaving certificate his application for regularisation was rejected and thereby he is not entitle to seek regular permanent post of Gr. D in the railways being a ex-casual labour.

5. When the matter was posted for evidence of II party while filing the affidavit of Prahalad Baburao Kale, Assistant Personnel Officer, Central Railway, Sholapur Division, Sholapur reiterating the Counter Statement examining him on oath as MW 1 got exhibited the Original application submitted by the I Party workman seeking regularisation of his service pursuant to the notification issued on 30.06.1999; record regarding verification of Bio-data given by him wherein it is found the School Leaving Certificate furnished by him for proof of age being found false; the explanation given by the I Party workman before RLC(C), Bellary conceding the School Leaving Certificate furnished by him along with the application does not belong to him and it was inadvertently produced which was handed over to him by his father without knowing the fact that the certificate was in order and that he apologises for the same; Photostat copy of the School Leaving Certificate produced along with application; Photostat copy of the Service Record and copy of the affidavit filed by the I party dated 03.05.2005 as Ex. M-1 to Ex M-6 respectively. By the time the matter reached the evidence of I Party since he was no more amongst his LRs his wife examining herself as WW 1 stated that her deceased husband who was working in Railways was removed from service without making any enquiry 20 years back.

6. After close of the evidence, the learned advocate appearing for the I party filed his written arguments, whereas the learned advocate appearing for the II party addressed his oral arguments.

7. On appreciation of the pleadings oral and documentary evidence place on record in the light of the arguments put forward by the respective advocates I have arrived at the conclusion that the Reference is liable to be rejected for the following reasons :

REASONS

8. Though in the proceedings before the ALC(C), Bellary in FOC No. 8(02)/2005/RLC/BLY a specific contention was taken that I Party had on his own abandoned the job from 19.02.1986, there is no denial of the same in the Claim Statement thereby in the absence of any contrary evidence on record it has to be presumed that he had abandoned the job on his own since 19.02.1986. Of course, as admitted by the II Party itself in its Counter Statement during the period from 12.03.1985 to 31.12.1985 he had served for more than 240 days precisely 295 days. Therefore, if at all the II Party were to terminate his service as required under Section 25(f) of ID Act 1947 it was to give him one months notice in writing indicating the reasons and wait till the period of the notice was expired or pay him wages in lieu of such notice and failure to comply the same would have amount to illegal retrenchment but in the instant case the contention of the II Party that I Party on his own abandoned the job from 19.02.1986 being not denied there is no illegal retrenchment. It is further indicated from the evidence on record that since from 19.02.1986 he did not pursue to continue his service and only when the II Party on 30.6.1999 issued a notification for considering all the eligible and ex-casual labourers for regularisation the I Party workman also submitted his application along with school leaving certificate as proof of his age and qualification and other required documents and on investigation the said school leaving certificate since found to be false being one not issued by the school shown to have issued it his application for regularisation was rejected and this aspect has been conceded by the I Party workman before the ALC(C), Bellary which statement is produced at Ex M-3. Thereby the rejection of regularisation of services of the I party by the II Party cannot be said to be arbitrary or illegal. In view of the above, I am of the considered view that though the I Party workman had worked for more than 240 days in a block period of 12 months having abandoned the job on his own from 19.02.1986 there being no retrenchment by the II Party it cannot be said that the II Party terminated his services without complying the mandatory provisions of Section 25(f) of the ID Act and secondly, for his own wrong in furnishing a false school leaving certificate in proof of his age and qualification loosing the opportunity of regularisation of service pursuant to the notification of the II party dated 30.06.1999 is his own fault. It cannot be said that II Party denied him regularisation of services without valid reason. Under the circumstances, the

reference is liable to be rejected and accordingly I pass the following Order:

ORDER

The reference is allowed holding that the action of the management of SBM in passing the Order of Terminating his Services by Compulsory retirement from the services of the Bank against the workman Shri K. M. Shama Rao, Cashier-cum-Godown Keeper, State Bank of Mysore, Kolar Branch, Kolar *w.e.f.* 25.06.2003 being not legal and justified and that he is entitle for Reinstatement with Full Backwages, Continuity of Service and all other consequential benefits that he would have received in the absence of the impugned Punishment of Compulsory Retirement imposed against him.

(Dictated to UDC, transcribed by him, corrected and signed by me on 12th April, 2013)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

कांआ 2561.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ मैसूर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बैंगलोर के पंचाट (संदर्भ संख्या 24/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12012/174/2005-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2561.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 24/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of Mysore, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12012/174/2005-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT YESHWANTPUR BANGALORE

Dated : 4th March, 2013

PRESENT : Shri S. N. Navalgund,
Presiding Officer

C.R. No. 24/2006**I Party**

Sh. G. Sridhar,
S/o Late Govindaraj P,
50, 4th Cross, Vannarpet
Layout,
Viveknagar Post,
Bangalore-560 005.

II Party

The General Manager (P),
State Bank of Mysore,
Head Office,
K G Road,
Bangalore-560 009.

APPEARANCES

- I Party : Shri D. Leelakrishnan,
Advocate
- II Party : Shri R. Narayan,
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) of Sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/174/2005-IR(B-I) dated 23.05.2006 for adjudication on the following schedule.

SCHEDULE

"Whether the action of management of State Bank of Mysore in passing the order of terminating the services by Compulsory Retirement from the services of the Bank against the workman Shri G. Sridhar, Ex-Special Assistant, State Bank of Mysore, Anekal Branch with effect from 2.12.2003 is legal and justified? If not, to what relief he is entitled and from which date?"

2. Upon receipt of the reference when notices were issued to Sh. G. Sridhar, Ex-Special Assistant, Anekal Branch, SBM (hereinafter referred as I Party) and also to The General Manager (P), State Bank of Mysore, Head Office, K. G. Road, Bangalore (hereinafter referred as II Party) both entered their appearances through their respective advocates and claim statement for the I party came to be filed on 06.09.2006 whereas the counter statement for the II Party under the signature of the authorised signatory on 05.01.2007.

3. After completion of the pleadings having regard to the assertion made by the I Party that the Domestic Enquiry was held in perfunctory manner without giving due opportunity to him in a hasty manner my learned predecessor had formulated a Preliminary Issue as to

"Whether the Domestic Enquiry by the II Party against the I Party is fair and Proper?"

4. On the said issue the management lead the evidence of Enquiry Officer and through him got exhibited Charge Sheet dated 22.01.2003; Charge Sheet dated 11.04.2003; Reply of the I Party dated 20.03.2003 to the charge sheet dated 22.01.2003; Reply of the I Party dated 17.04.2003 to the charge sheet dated 11.04.2003; Notice of Enquiry Officer dated 29.05.2003 sent to the I Party fixing the preliminary enquiry on 12.06.2003; Proceedings of the enquiry dated 12.06.2003; Proceedings of the enquiry dated 18.06.2003; Proceedings of the enquiry dated 09.07.2003; Proceedings of the enquiry dated 23.07.2003; Proceedings of the enquiry dated 24.07.2003; Proceedings of the enquiry dated 06.08.2003 and Report of the Enquiry Officer as Ex M-1 to to Ex. M-12 respectively. Whereas, the I Party filed his affidavit on 29.11.2007 and additional affidavit on 31.08.2010 and examining him on oath as WW 1 without producing any documentary evidence subjected himself for cross-examination by the learned advocate appearing for the II Party. After hearing the arguments of learned advocates appearing for both sides by order dated 02.02.2011 the Preliminary Issue came to be answered in the Affirmative holding the Domestic Enquiry held against the I Party by the II Party as Fair and Proper.

5. Consequent to answering the Preliminary Issue touching the fairness of the Domestic Enquiry in favour of the II Party when the learned advocates appearing for both sides were called upon to address arguments, the learned counsel appearing for the I Party filed his Written Arguments whereas learned counsel appearing for the II Party addressed his oral arguments.

6. It is borne out from the records produced from Ex. M-1 to Ex. M-12 during the course of enquiry on the Preliminary Issue, that the I Party who joined the service of the II Party as Typist-cum-Clerk on 24.09.1981 while serving as Special Assistant at Anekal Branch of the II Party he was served with two charge sheets dated 22/25.01.2003 and 11.04.2003 which are produced at Ex M-1 and Ex M-2. In the first charge sheet dated 22/25.01.2003 he was charged with two charges viz.,

- (i) That he unauthorisedly remained absent for a period of 59 days continuously from 26.11.2002 to 22.01.2003 which caused serious disruption in the work of the bank and thereby he committed a gross misconduct in terms of 19.5(p) of the BPS.
- (ii) That on 07.11.2002 by abuse of his official position got a cheque bearing No. 425998 dated 07.11.2002 for Rs. 85,000/- issued to him by one Sh. Vijay Kumar drawn on M/s. ICICI Bank, Bangalore Branch purchased and withdrawn the same subsequently which came bounced inspite of advise to make good the said amount having

failed to make good the same he has committed a gross misconduct in terms of 19.5(j) of the BPS.

7. In the second charge sheet it was alleged that on 10.04.2003 while working as Special Assistant at Anekal Branch enjoying the powers of passing payment upto Rs. 25000.00 by misusing his official position with an ulterior motive of making wrongful gain in order to tide over his financial crises colluding with Sh. K. Shivappa the representative of Solur Adiparakati Mahila Kshembivrudhi Mandali having an S B Account bearing No. 69234 he made them to draw a bearer cheque bearing No. 525292 dated 10.04.2003 for Rs. 20000.00 and present the same at the counter at the branch and upon Sh. G. Suresh the counter clerk issuing a token bearing No. 295, before he could post in the concerned account in the Computer System for passing he stealthily removing the said cheque despite the fact that there was only a credit balance of Rs. 338.00 he passed it for payment by causing an entry in concerned account in the Computer System and thereafter sent the passed cheque for counter for effecting the payment of the cheque and thereby having acted prejudicial to the interest of the Bank and also deliberately occasioned the bank to a financial loss of Rs. 20000.00 committed a grave misconduct in terms of 19.5(j) of the BPS.

8. On the above said charge sheets he was kept under suspension and was called upon to submit his explanation and on his submission regarding first charge sheet that as he was not well and bed ridden could not be able to attend office for the absentee period and that he has produced Medical Certificate and Leave Letter and regret for having failed to inform in advance and as regard to Charge No. 2 purchase of cheque for Rs. 85000.00 on 07.11.2002 as his friend G. Vijay Kumar had promised to give some deposits to the Bank he had taken the risk of purchasing the cheque which bounced and that within a month he would make good the amount by his reply dated 20.03.2003 and in respect of the second charge sheet he passed Cheque No. 525292 dated 10.03.2003 for Rs. 20000.00 by mistake and confusion mix-up due to heavy transactions of that day comprising of receipt vouchers of about 220 payments of about 250 and of loose cheques of about 17 and that he had no intention to cause any loss to the organisation by his reply dated 17.04.2003, the II party being not satisfied with the replies/submission order to hold a DE appointing Sh. N Guru Prasad as Enquiry Officer and Sh. R. Vijay as Presenting Officer. The Enquiry Officer on the first charge sheet dated 22/25.01.2003 while receiving the evidence of Sh. D. Srinivasa Rao, Manager of Anekal Branch since September, 2001 and getting exhibited:—

- (i) Attendance Register of Anekal Branch covering the months November 2002 to January 2003;

- (ii) Ltr. Bearing No. Estt/1000 dated 28.12.2002 written to AGM, R3, Bz regarding the matters covered in the first charge sheet, and
- (iii) Ltr. No. Bz/AGM3/ESTT/9528 dated 31.12.2002 addressed to the first party by the Assistant General Manager, Region 3, Bangalore Zone.
- (iv) Copy of the Saving Bank challan dated 7.11.2002 to the credit of Sri. G. Sridhar A/c No. 79648 with a note 'Please Purchase' for Rs. 85,000/-.
- (v) copy of the transfer debit dated 7.11.2002 for Rs. 85,000/-
- (vi) copy of statement of account pertaining to S B A/c No. 79648 of Shri G Sridhar dated 10.6.2003 for the period 01.11.2002 to 07.11.2002
- (vii) copy of return of cheque memo from S B M Service Branch Bangalore indicating return of Cheque bearing No. 425998 drawn on ICICI Bank, M G Road, for Rs. 85,000/-
- (vii) copy of Memo from ICICI Bank for returning cheque with reason "Funds Insufficient"
- (viii) copy of cheque No. 425998 dated 07.11.2002 for Rs. 85,000/- drawn in favour of G. Sridhar
- (ix) copy of the letter dated 15.11.2002 signed by G Sridhar to the Manager, SBM Anekal Branch
- (x) copy of a letter addressed to the Assistant General Manager, Region-III, by the Manager, SBM Anekal dated 25.11.2002
- (xi) copy of the Memo issued by the Assistant General Manager, Region-III dated 11.12.2002 to Sri G. Sridhar bearing No. AGM:III:BA:ESTT:8746.

as BEx-1 to BEx-10 respectively and in respect of the Second Charge Sheet dated 10.04.2003 while receiving the evidence of Sh. G. Suresh, Special Assistant of Anekal Branch, Sh. T.K. Ramesh Babu, CGK Anekal Branch as BW 1, 2, 3 respectively and further evidence given through BW 1 Sh. D. Srinivas Rao and getting exhibited:—

- (i) Copy of the cheque bearing No. 525292 dated 10.4.2003 for Rs. 20000/- drawn by Solur Adiparashakthi Kshembivrudhi Mandli favouring K Shivanna A/c No. 69234
- (ii) Copy of the payment scroll maintained by Passing Official dated 10.04.2003
- (iii) Copy of the payment cashier's scroll maintained by the Payment Cashier's Scroll maintained by the Payment Cashier dated 10.04.2003

- (iv) Copy of the statement of Account of SB No. 69234 A/c Solur Adiparashakthi Manila Kshemabivrudhi Mandali, Solur dated from 01.03.2003 to 13.05.2003
- (v) Copy of the letter addressed to the Asst. General Manager, Region-III, by the Manager, State Bank of Mysore, Anekal bearing No. SUSPENSE/1130 dated 10.04.2003

as BEx 1 to BEx 5 and after receiving the written submission of the Presenting Officer sending the copy of the same to the CSE/I Party calling upon him to give his written submission on his failure to submit his written submission submitted his finding dated 16.08.2003/Ex M-12 holding both charges of first charge sheet as proved and the charge under the second charge sheet as partly proved. The Disciplinary Authority on receipt of the finding of the Enquiry Officer while agreeing with the finding of the Enquiry Officer in respect of the charges under charge sheet dated 22/25.01.2003 while disagreeing with the finding of the Enquiry Officer charge under the second charge sheet dated 10.04.2003 being partly proved observing that though there was no direct evidence CSE/I Party having removed the cheque stealthily, considering the recovery made from the payee holding the charge as partly proved is incorrect as the charges have to be considered taking into account the whole of the evidence that has been let in as the cheque was passed by the CSE without following the established and laid down procedure and with utter negligence in not even verifying the balance in the account. Merely because the witness BW2 in charge of the SB counter admitted that to the best of his knowledge CSE did not remove the cheque stealthily but passed it in the usual course of transactions is not sufficient to dislodge the circumstances which conclusively establishes that it is only the CSE who has removed the cheque to cover up his lapses and as the preponderance of probabilities will have to be taken note of is inclined to take a view that the charge in respect of second charge sheet is also proved by his notice dated 17.10.2003 called upon the CSE/I Party to show cause why the Enquiry Report in respect of first charge sheet should not be accepted and regarding second charge sheet modified as fully proved, as he did not receive any reply by his order dated 02.12.2003 while accepting the report of the Enquiry Officer regarding charge No. 1 and 2 covered in the first charge sheet as well as the charge under second charge sheet as proved he ordered for "Censure" in respect of first charge of the first charge sheet in terms of Clause 19.7 of BPS and in respect of second charge of the first charge sheet as well as charge under the second charge sheet separately for "Compulsory Retirement from Service" in terms of 19.6(b) of the BPS with consequential terminal benefits with further direction for recovery of Rs. 95000.00 with clean rate of interest rate of interest upto the date of recovery out of the terminal benefits.

9. Since by Order of this court dated 02.02.2011 the Domestic Enquiry being held as Fair and Proper the points now remaining now for my consideration are:

1. Whether the finding of the EO and modified by the DA in relation to the second charge sheet are perverse necessitating interference of this court?
2. If not, whether the punishment of Compulsory Retirement imposed by the DA for Charge No. 2 of first charge sheet and Charge under Second charge sheet are excessive to the misconduct proved against the I party?
3. What Order?

10. On re-appreciation of the evidence adduced by the management and the clear admission given by the I Party in his reply to the charge sheet and his omission to challenge the evidence of BWs 1 to 3 by their cross-examination in the light of the arguments put forward by the learned advocates appearing for the parties my finding on Point No. 1 and 2 are in the Negative and No. 3 as per Final Order for the following reasons:

REASONS

11. At the outset, I may say that in respect of Charge No. 1 of the first charge sheet *viz.*, relating to unauthorized absence of CSE for a period of 59 days continuously between 26.11.2002 and 22.01.2003, the punishment imposed by the Disciplinary Authority being Censure it is not the subject matter covered in this reference. Even otherwise the first party having unequivocally admitted in his reply having remained absent for the said period of 50 days without prior sanction as alleged in his reply that he has furnished a medical certificate regarding his inability to attend the office due to his illness for the said period failed to bring on record having submitted such leave letter with a medical certificate as such the finding of the Enquiry Officer this Charge No. 1 under first charge sheet is proved does not call for any interference.

12. Coming to Charge No. 2 covered under the first charge sheet relating to his abuse of official position getting cheque bearing No. 425998 dated 07.11.2002 for Rs. 85000.00 issued to him by one Sh. Vijaya Kumar drawn on ICICI Branch, Bangalore purchased and withdrawing the said amount which latter came to be bounced and he failed to make good the said amount in spite of a Memo issued to him dated 11.12.2002 being not at all denied and on the other hand and in his reply to the Charge Sheet he has categorically admitted this aspect further saying that since his friend Sh. G Vijaya Kumar assured to give some deposits to the Bank he had taken such risk but failed to bring on record any evidence to substantiate the same and even

otherwise for the assurance of his friend that he would give some deposits to the bank there was no reason for the I Party to take such a risk of getting his cheque passed purchasing it by himself from the Bank where he was working and this in my opinion clearly amounts to abuse of his official position in the II party bank as alleged in the charge. Moreover the evidence adduced by the II party in this regard through Manager Sh. D. Srinivas Rao corroborated by the documentary evidence do prove this charge without any doubt. Moreover, the learned advocate appearing for the I Party in his written arguments except stating findings of Enquiry Officer are baseless and perverse as they are not based on the evidence on record failed to analyze the evidence to substantiate his arguments that the finding is baseless and perverse. Therefore, as regards the findings of the Enquiry Officer relating to the Charge No. 2 of the first charge sheet as well I find no reason to hold the same as baseless or perverse.

13. Coming to the finding of the Enquiry Officer regarding the charge covered under the second charge sheet as already adverted to by me above the II Party has relied upon the Oral Evidence of Sh. G. Suresh Special Assistant of Anekal Branch, Sh. T.K. Ramesh Babu, CGK, Anekal Branch and got exhibited Copy of the cheque bearing No. 525292 dated 10.04.2003 for Rs. 20000/- drawn by Solur Adiparashakthi Kshemabivrudhi Mandli favouring K. Shivanna A/c No. 69234; copy of payment scroll maintained by Passing Official dated 10.04.2003; copy of the payment cashier's scroll maintained by the Payment Cashier's Scroll maintained by the Payment Cashier dated 10.04.2003; copy of the statement of Account of SB No. 69234 A/c Solur Adiparashakthi Manila Kshemabivrudhi Mandali, Solur dated from 01.03.2003 to 13.05.2003 and copy of the letter addressed to the Asstt. General Manager, Region-III, by the Manager, State Bank of Mysore, Anekal bearing No. SUSPENSE/1130 dated 10.04.2003 as BEx 1 to BEx 5.

14. Though this evidence is not challenged in any manner the Enquiry Officer only on the evidence of Sh. G. Suresh that to the best of his knowledge the CSE has not taken or removed cheque stealthily and passed in the usual transactions and a recovery of Rs. 15000.00 has been made from the Payee Sh. J Shivappa given room for a second thought whether the cheque was removed from the counter stealthily he answered this charge being partly proved. Thereby he means to say that the II Party failed to establish part of the charge I Party having removed the cheque stealthily before passing it for payment. For this observation and finding of the Enquiry Officer the Disciplinary Authority while observing that it is not acceptable and on the preponderance of probabilities the cheque being stealthily removed by him has to be inferred and issued a show cause notice why it should not be held as proved the

CSE/I Party having failed to show cause in spite of receiving notice in that regard, the Disciplinary Authority in my opinion did not commit any error in holding that the finding of the Enquiry Officer the charge covered in the second charge sheet being partly proved is erroneous and that this charge is proved is perfectly justified. Under these circumstances, I find no error being committed by the Enquiry Officer in holding the CSE guilty of both the charges covered in the first charge sheet and Disciplinary Authority in modifying his finding the charge covered under second charge sheet being partly proved as erroneous and it is fully proved. Thereby I arrive at conclusion of answering the first point in the Negative.

15. Point No. 2 : The Disciplinary Authority while viewing the unauthorised absence of I Party covered under the first charge of the first charge sheet leniently ordered for "Censure", whereas in relation to the second charge covered under first charge sheet and the charge covered in the second charge sheet having regard to the responsibility that was expected to be of the I Party, the negligence on his part and the consequent loss caused to the Bank has taken a decision to Compulsorily Retire him from the Service of the Bank with consequential terminal benefits and for recovery of Rs. 95000.00 the loss caused to the bank due to his impugned action. The learned advocate appearing for the I Party except saying that it is excessive in his written arguments failed to demonstrate how it could be termed as excessive to the proved misconduct. The I Party who was holding the post of Special Assistant with a power to pass the cheques for payment was holding a responsible post in the branch and his action passing the cheque for Rs. 20000.00 where the balance was just Rs. 380.00 was highly unbecoming of the post he had held which resulted in monetary loss to the bank. Only because subsequently part of the amount covered under this cheque to the tune of Rs. 15000.00 is recovered it has no relevancy to absolve him of his act in passing such a cheque throwing all the norms of the bank to the wind. Under the circumstances, I find no reason to interfere in the modification made by the Disciplinary Authority the second charge as well being proved and imposing the punishment of Compulsory retirement from Service with consequential terminal benefits along with recovery of Rs. 95000.00 towards the loss caused as arbitrary or excessive to the misconduct proved against the I Party. In the result, I find no reasons either to interfere in the finding of the Enquiry Officer the modification of the finding of the Enquiry Officer by the Disciplinary Authority as well relating to the second charge sheet as well as the punishment imposed by the Disciplinary Authority. In the result, I answer this point accordingly.

16. **Point No. 3 :** In view of my finding on Point No. 1 and 2, the reference deserves to be Rejected and I Party is not entitled for any relief. In the result, I pass the following Order:

ORDER

The reference is rejected holding that the action of the management of State Bank of Mysore in passing the order of terminating the services by Compulsory Retirement from Services of the Bank against the workman Shri G. Sridhar, Ex-Special Assistant, State Bank of Mysore, Anekal Branch with effect from 2.12.2003 is legal and justified and that I Party is not entitled for any relief.

(Dictated to UDC, transcribed by him, corrected and signed by me on 4th March, 2013)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

कांआ 2562.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार साउथ सेंट्रल रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक, अधिकरण, बेंगलूर के पंचाट (संदर्भ संख्या 73/2001) को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-41012/156/2000-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 73/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of South Central Railway, and their workmen received by the Central Government on 11/11/2013.

[No. L-41012/156/2000-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
YESWANTHPUR, BANGALORE**

Dated : 31st May, 2013

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer

C.R. No. 73/2001**I Party**

Sh. F A Khan,
Ex. AS M, Arjun Vihar,
Gokul Road,
Hubli

II Party

The Divisional Railway
Manager,
South Central Railways,
Hubli

APPEARANCES

I Party : Shri A. I. SHIDDEEK,
Advocate

II Party : Shri S. C. Jainar,
Advocate

AWARD

1. The Central Government *vide* order No. L-41012/156/2000-IR (B-I) dated 09.2001 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the action of the management of the Divisional Railway Manager, South Central Railway, Hubli in dismissing the services of the Shri F. A. Khan w.e.f. 21-12-1995 is justified. If not, what relief the concerned workman is entitled?"

2. On receipt of the reference while Registering it in CR 73/2001 when notices were issued to both the sides they entered their appearance through their respective advocates and filed the claim and counter statement. After completion of the pleadings having regard to certain allegations made in the claim statement touching the fairness of the Domestic Enquiry while framing a Preliminary Issue as :

"Whether the Domestic Enquiry conducted by the II party against the I Party is fair and proper?"

after receiving the evidence adduced by the II Party and hearing the arguments addressed by the learned advocates appealing for both sides by order dated 09.03.2011 the Preliminary Issue was answered in the Negative holding the Domestic Enquiry held against the I Party by the II Party being not fair and proper. In view of the said finding on the Preliminary Issue the matter was posted for Evidence of II Party on merits and in spite of providing several opportunities to lead evidence since same was not availed on 19.10.2011 taking that II Party is not interested to lead evidence on merits since I Party counsel on the same day submitted that he too has no evidence and it may be posted for arguments, the matter was when posted for arguments

the learned advocates appearing for both sides filed their written arguments.

3. The charge against the I Party was that he who was working as ASM/MLP remained unauthorisedly absent from duty continuously from 11.03.1993 to 31.08.1993 for a period of 174 days and thereby failed to maintain devotion to duty and contravened Rule 3(1) of the Railways Services Conduct Rules, 1966 without obtaining prior sanction from the competent authority or producing sick certificate issued by the Railway Medical Authorities. Since the Domestic Enquiry conducted by the II Party against the I Party came to be held as Not Fair and Proper and an opportunity was given to the II Party to substantiate the said charge and as the same was not availed and after providing several opportunities though it was taken that II Party is not interested to lead evidence, as the learned advocate appearing for the II Party without making any attempt to lead evidence proceeded to file his written arguments. Since the II Party failed to produce any evidence to substantiate the charge levelled against the I Party of unauthorised absence, the written arguments submitted is being without any basis cannot be attached with any value. Therefore, the charge levelled against the I Party of remaining unauthorised absent for a period of 174 days from 11.03.1993 to 31.08.1993 is not supported by evidence, I have not other go except to say that its impugned action dismissing the I Party is not legal and justified. In view of my finding that II Party failed to substantiate the charge of unauthorized absence by the I Party, he is entitle for reinstatement but since no evidence is adduced by the I Party as well being not gainfully employed after the impugned punishment of dismissing him from service he cannot be compensated by any backwages. In the result, I pass the following Order:

ORDER

The reference is allowed holding the action of the management of the Divisional Railway Manager, South Central Railway, Hubli in dismissing the services of Sh. F. A. Khan *w.e.f.* 21.12.1995 is not legal and justified and that he is entitle for reinstatement with continuity of service and no Backwages.

(Dictated U.D.C. transcribed by him, corrected and signed by me on 31st May, 2013).

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2563.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार स्टेट बैंक ऑफ मैसूर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, बेंगलोर के पंचाट (संदर्भ संख्या 35/2005) को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं० एल०-12012/271/2004-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 35/2005 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of Mysore, and their workmen received by the Central Government on 11/11/2013.

[No. L-12012/271/2004-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, YESHWANTPUR, BANGALORE

DATED : 8th April, 2013

PRESENT : SHRI S.N. NAVALGUND
Presiding Officer

C R No. 35/2005

I Party

Sh. N. Gopala,
S/o Shri Narasimaiah,
C/o Ganagogi Rao,,
5th Cross
North Channapatna,
Bangalore

II Party

The General Manager
(Operations),
State Bank of Mysore,
Head Office.
VII Floor, K G Road,
Bangalore

APPEARANCES

I Party : Sh. D. Leelakrishnan,
Advocate

II Party : Sh. R. Narayana,
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-12012/271/2004-IR(B-I) dated 05.08.2005 for adjudication on the following schedule:

"Whether the management of State Bank of Mysore is justified in imposing the punishment of compulsory retirement from services on

Shri N Gopala, Peon with effect from 24.12.2003?
If not, what relief the workman is entitled to?"

2. On receipt of the reference registering in C R 35/2005 when the notices were issued to both the sides, they appeared through their respective advocate and claim statement came to be filed on 17.02.2006 and counter statement came to be filed on 24.04.2006.

3. After completion of the pleadings having regard to the certain allegations made in the claim statement conducting of the Domestic Enquiry not in fair and proper manner, my learned predecessor had raised a Preliminary Issue as to :

"Whether the Domestic Enquiry held against the I party by the II party is fair and proper?"

and had recorded evidence of the Enquiry Officer for the management and that of the I Party and after I assuming the Office hearing the arguments of the learned advocates appearing for both sides by Order dated 20.08.2010 the Preliminary Issue came to be answered in Affirmative holding that the Domestic Enquiry conducted by the II party against the I party as fair and proper. Thereafter, as proposed by both the sides, the matter was posted for arguments on merits and learned advocate appearing for the I party filed written arguments, whereas, the learned advocate appearing for the II party addressed his Oral Arguments.

4. The brief facts leading to this Reference and Award may be stated as under:

"N Gopal (hereinafter referred as I Party) who joined the services of the State Bank of Mysore (hereinafter referred as II Party) on 14.12.1987 as a Peon while working at its Akkur Branch came to be placed under suspension by order dated 28.09.2002 followed by Charge Sheet dated 26.10.2002 alleging that while he was working as Peon at Akkur Branch without authority and by abuse of his official position prepared vouchers and debited certain Savings Bank Account relating to old Age Pensions and afforded credit to certain unconnected Loan Accounts as enlisted in Annexure-I to the Charge Sheet and thereby did an act detrimental to the interest of the Bank with an ulterior motive of helping some of the borrowers of the Bank and thereby acted prejudicial to the bank and caused loss of Rs. 157000.00 and committed gross misconduct under clause 19.5 (j) of the BPS and secondly without authority and abuse of his official position made wrongful gains of sum of Rs. 76220.00 by affording credit to his SB Account No. P555 maintained jointly with his wife Smt. Radha and thereby made wrongful gain for himself and acted prejudicial to the interest of the bank to the financial loss of Rs. 76220.00 and thereby committed gross misconduct under clause 19.5 (j) of

the BPS. Since he failed to give any reply to this charge sheet within stipulated time provided to him the Disciplinary Authority while ordering for a Domestic Enquiry appointed H V Nagendra, Chief Manager as Enquiry Officer and G Anantha Padmanabhaiah, Manager as Presenting Officer. The Enquiry Officer after complying the formalities of preliminary hearing exhibiting 40 documents for the management with the consent of the I party and his Defence Representative and receiving the evidence of U R Srinivasan who had conducted Special Audit of the Akkur Branch and T Hariharan the Manager of the Akkur Branch as MWs 1 and 2 for the management and on submission of the CSE and his Defence Representative that they have no Oral Evidence while exhibiting Chapter XIII, General Administration and Staff 81.01 and 81.01 stating that Clerical Work attended to by Daftry, since stopped as Ex D-1 and D-2, after receiving the written briefs of the Presenting Officer and Defence Representative submitted his Enquiry Findings to the Disciplinary Authority on 15.10.2003 (Ex M-7) both charges being proved. Then the Disciplinary Authority while enclosing the copy of the Report of the Enquiry Officer issued him Show Cause Notice as to why he should not be Compulsorily removed from service with consequential terminal benefits and after affording an opportunity of hearing which was not availed by him he passed the impugned order of punishment Compulsorily Removing him from Service with consequential benefits as provided under clause 19.5 (b) of Bipartite Settlement and also recovery of Rs. 181672.00. Since in the conciliation proceedings initiated by the I party the II party did not agree to continue service of I party having regard to the financial loss occasioned by him to the Bank by his fraudulent act the conciliation since failed the Central Government made this reference for adjudication."

5. Since the Domestic Enquiry conducted by the II party against the I Party is held as Fair and Proper by Order of this court dated 20.08.2010 and the arguments addressed by both sides have been heard on merits the points that now requires to be considered by me are:

1. Whether the finding of the Enquiry Officer holding the charge as proved is perverse necessitating the interference of this court?
2. If not, whether the punishment of removal from service with consequential terminal benefits and order for recovery of Rs. 181672.00 loss occasioned to the Bank by the CSE is disproportionate requiring any modification?
3. What Order?

6. On appreciation of the pleadings touching the merits of the case, Oral and Documentary Evidence brought on record by the II Party in the Domestic Enquiry with the arguments put forward by the learned advocates appearing for both the sides my finding on Point No. 1 and 2 are in the Negative and Point No. 3 is as per final order for the following reasons:

REASONS

7. It is asserted in Para 6 of the Claim Statement though in the cross-examination of the two witnesses examined for the management favourable answers to him were elicited supporting his stand the Enquiry Officer held the Charges as proved as such his finding is perverse, without highlighting what are the favourable answers in his favour in the corss-examination of the Management witnesses. Even in the written arguments submitted by the learned advocate appearing for the I party he has only reiterated what is stated in the claim statement without highlighting any specific admissions given by the management witnesses in their cross-examination to prove the innocence of the I party. Since the Domestic Enquiry conducted by the II Party against the I Party is found fair and proper it was for the I Party counsel to demonstrate the finding of the Enquiry Officer, charges are proved being baseless or perverse. I carefully gone through the examination in chief of MW 1 and 2 and their cross-examination by the Defence Representative and find no admissions being taken in their corss examination to prove the innocence of the I Party/CSE from the charges levelled against him. Therefore, absolutely having found no reasons to come to a conclusion the enquiry finding being perverse, I have arrived at conclusion of answering the Point No. 1 in the Negative.

8. Now coming to the second point when the I Party/CSE abusing his Official position manipulated vouchers and debited certain Savings Bank Account relating to Old Age pensioners and afforded credited to some unconnected persons loan Accounts to tune of Rs. 1,50,000.00 and wrongfully gave credit to his own SB Account maintained along with his wife to a sum of Rs. 76,220.00 and thereby committed a gross misconduct as contemplated under Section 19.5 (j) of the BPS there would not have been any other lesser punishment to him than the one imposed by the Disciplinary Authority and confirmed by the Appellate Authority. Under the circumstances, I arrive at the conclusions of answering this issue also in the Negative and pass the following Order:

ORDER

The reference is rejected holding that the management of the State Bank of Mysore is justified in imposing the punishment of Compulsory Removal from Services on Shri N Gopala, Peon with effect from 24.12.2003 and that he is not entitle for any relief.

(Dictated to UDC, transcribed by him, corrected and signed by me on 8th April 2013)

S.N. NAVALGUND, Presiding Officer.

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2564.—औद्योगिक विवाद अधिनियम, 1947 (1947का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार स्टेट बैंक ऑफ़ मैसूर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, बैंगलोर के पंचाट (संदर्भ संख्या 25/2006) को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं० एल-12012/176/2005-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2006) of the Central Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of Mysore, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12012/176/2005-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, YESHWANTPUR, BANGALORE

Dated : 10th April 2013

PRESENT : SHRI S.N. NAVALGUND,
Presiding Officer

C. R. No. 25/2006

I Party

Sh. K. M. Shamarao,
S/o Late Munnoji Rao,
Kolaramma Extension, Fort,
KOLAR-563 101.

II Party

The Deputy General
Manager (P),
State Bank of Mysore,
Central Zone,
P.B. No. 9525, BKG Complex,
A Block, Avenue Road,
BANGALORE- 560 009.

APPEARANCES

I Party : Sh. Muralidhara, Advocate

II Party : Sh. R. Narayana,
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-12012/176/2005-IR(B-I) dated 23.05.2006 for adjudication on the following schedule:

SCHEDULE

"Whether the action of management of State Bank of Mysore in passing the order of terminating the services by compulsory retirement from the services of the Bank against the workman Shri K.M. Shama Rao, Cashier-cum-Godown Keeper, State Bank of Mysore, Kolar Branch, Kolar with effect from 25.6.2003 is legal and justified? If not, to what relief he is entitled and from which date?"

2. On receipt of the reference registering it in C R 25/ 2006 when notices were issued to both the sides, they entered their appearance through their respective advocates and I party filed his claim statement on 06.09.2006 and II party its counter statement on 05.01.2007.

3. Having regard to the certain allegations made in the claim statement touching the fairness of the Domestic Enquiry while framing a Preliminary Issue as to:

"Whether the Domestic Enquiry held against the I party by the II party is fair and proper?"

after receiving the evidence of both the sides and hearing the learned advocates of both the sides, by order 12.11.2010 the said issue came to be answered in the affirmative holding that Domestic Enquiry conducted against the I party by the II party being fair and proper. After disposal of the Preliminary Issue touching the fairness of the Domestic Enquiry the learned advocate appearing for the I Party while filing the affidavit of I Party being not gainfully employed victimization/discrimination examined him on oath as WW 1(V) and no rebuttal evidence is adduced by II party.

4. The briefs facts leading to this reference and award are as under:

5. K.M. Shama Rao (hereinafter referred as I Party) who joined the services of State Bank of Mysore (hereinafter referred as II Party) on 24.08.1981 and later in the year 1987 came to be promoted as Cashier-cum-Godown Keeper, while serving at Kolar Branch on 20.01.2000 served with the charge sheet and amended charge sheet on 20.10.2011 as under:

"While working as cashier/Godown Keeper at our Kolar branch from 16.11.92 to 26.10.99, you are alleged

to have committed certain serious irregularities/acts of omission and commission which are given hereunder:

CHARGE-I

In respect of SB a/c 59/20393 of Smt. Narayanamma, you have posted the following credits on the dates mentioned below.

DATE OF CREDIT	AMOUNTS CREDITED (Rs.)
9.9.98	1,300
9.1.99	2,000
14.1.99	1,000
9.2.99	2,000

The above credits have been posted by you in your handwriting and the above entries also bear your initials in the columns meant for authentication of posting and checking. Subsequently, it has transpired that the above credits afforded by you to the above account are fictitious.

In the same account, you have posted the following debits on the date/mentioned below.

DATE OF CREDIT	AMOUNTS CREDITED (Rs.)
9.9.98	2,000
29.8.98	1,000
13.1.99	1,000
6.2.99	2,000

In respect of the above debits, you have committed the following:—

- Prepared the withdrawals slips using different styles.
- issued the token.
- identified the LTM of the depositor.
- posted the debits to the account although you were working in the Cash Dept.
- failed to insist for production of pass book before issuing tokens and before posting the debit vouchers.

In view of the facts that the above credits are fictitious, the above withdrawals are fraudulent.

CHARGE-II

In respect of SB account 11/12755 of Smt. Chikkamuniyamma, you have posted following credits on the date mentioned below.

DATE OF CREDIT	AMOUNTS CREDITED (Rs.)
15.12.98	20,000

The above entries have been posted by you in your handwriting and the entries also bear your initials in the columns meant for authentication of posting and checking. Subsequently it has transpired that the above credits afforded by you to the account are fictitious.

In the same account, you have posted the following debits on the dates mentioned below.

DATE OF DEBIT	AMOUNT DEBITED (Rs.)
3.7.97	5,000
6.10.97	2,000
8.10.97	2,000
6.11.97	2,000
5.12.97	2,000
5.3.98	5,000
6.4.98	5,000
24.6.98	5,000
3.9.98	6,870
15.12.98	2,000

In respect of the above debits, you have committed the following.

- Prepared the withdrawals slips using different styles.
- issued the token.
- failed to insist for production of pass book before issuing tokens and before posting the debit vouchers.
- Posted the debits to the account although you were working in the Cash Dept.

CHARGE-III

In respect of SB account PN/22981 of Smt. Nagamma, you have posted following credits on the date mentioned below.

DATE OF CREDIT	AMOUNTS CREDITED (Rs.)
30.12.98	2,000
27.2.99	1,000

The above entries have been posted by you in your handwriting and the above entries also bear your initials in the columns meant for authentication of posting and checking. Subsequently, it has transpired that the above credits afforded by you to the account are fictitious.

In the same account, you have posted the following debits on the dates mentioned below.

DATE OF DEBIT	AMOUNT DEBITED (Rs.)
26.12.98	2,000
10.2.99	1,000
10.2.99	4,000

In respect of the above debits, you have committed the following.

- Prepared the withdrawals slips using different styles.
- issued the token.
- Posted the debits to the account although you were working in the Cash Department.
- failed to insist for production of pass book before issuing tokens and before posting the debit vouchers.

In view of the facts that the above credits are fictitious, the above withdrawals are fraudulent.

CHARGE-IV

In respect of SB account 59/20360 of Smt. A Gracedwin, you have posted following debits on the date mentioned below.

DATE OF DEBIT	AMOUNT DEBITED (Rs.)
2.11.98	5,000

In respect of the above debits, you have committed the following.

- Prepared the withdrawals slips using different styles.
- issued the token.
- Posted the debits to the account.
- failed to insist for production of pass book before issuing tokens and before posting the debit vouchers.

CHARGE-V

In respect of SB account No. 11/15872 of Smt. Govindamma, you have posted following credits on the date mentioned below.

DATE OF DEBIT	AMOUNT DEBITED (Rs.)
5.1.98	10,000
1.2.99	5,000

The above credits have been posted by you in your handwriting and the above entries also bear your initials in the columns meant for authentication of posting and checking. The entries are omitted to enter in the self-balancing ledger sheet. Subsequently, it has transpired that

the above credits afforded by you to the account are fictitious.

In the same account, you have posted the following debits on the dates mentioned below.

DATE OF DEBIT	AMOUNT DEBITED (Rs.)
26.12.98	2,000
10.2.99	1,000
10.2.99	4,000

Your above acts constitute gross misconduct in terms of clause 19.5 (J) of the Bipartite agreement. You are therefore, called upon to submit your replies within 15 days from the date of receipt of the Charge Sheet failing which it will be construed that you have no satisfactory reply to submit. Further, action will be initiated as per provisions of the Bipartite Settlement in force without further reference to you.

Sd/-

Disciplinary Authority &
Regional Manager IV

**Amendment to Charge sheet No. RM-IV/CZ/DPD/8855
dated 20/01/2000**

Please read the following amendments to the above Charge Sheet.

<u>Chargesheet Read as</u>	<u>To be Read as</u>
Charge I	
Date of Debit 09/01/1998	09/01/1999
Charge II Para 1 Line 1	
11/12755 Date of Debit 03/07/1997	17758 03/11/1997
Charge V	
Date of Credit 01/02/1999	10/02/1999

The other contents in the chargesheet remains unchanged.

Sd/-

Regional Manager IV.
Disciplinary Authority."

6. The II party/management being not satisfied with the reply given by him ordered for enquiry by appointing Vilas B Patil as Enquiry Officer and R. Lakshminarayana as Presenting Officer. The Enquiry Officer after observing the formalities of preliminary hearing receiving the evidence of Usha Rani, the then Deputy Manager, Kolar Branch, Jeeva the then Assistant Manager, Kolar Branch, Mohan Dass,

Manager, RRB Cell at Head Office, M A Azeez ABD, Head Office, Jayalaxmamma, the then Typist clerk at Kolar Branch as BWs 1 to 5 and exhibiting 31 documents as BEx 1 to 31 the detailed description of which are narrated in the Annexure. After receiving the written briefs from the Bank Representative and Defence Representative submitted his finding to the Disciplinary Authority dated 19.08.2002 Charges No. 1, 2, 3 and 5 being proved. Then the Disciplinary Authority while enclosing the finding of the Enquiry Officer issued show cause notice to the CSE/I Party to show cause why he should not be terminated from Services and after receipt of reply giving him an opportunity of hearing passed the impugned order dated 25.06.2003 Compulsorily Retiring him from Service. The Appellate Authority as well after affording opportunity to the I party confirmed the punishment imposed by the Disciplinary Authority by order dated 29.03.2004. Since the conciliation raised by the I party workman before the ALC(C), Bangalore ended in failure the Central Government made this reference for adjudication.

7. Since the Domestic Enquiry conducted by the II party against the I party has been answered in favour of II party by order dated 12.11.2010 the points that now remain for my consideration are:

Point No. 1: Whether the finding of the Enquiry Officer charge No. 1, 2, 3 and 5 are proved is perverse necessitating the interference of this court?

Point No. 2: If not, whether the punishment imposed is disproportionate to the misconduct proved against I party?

Point No. 3: What Order?

8. On appreciation of the pleadings of the parties touching the merits with the evidence placed on record in the Domestic Enquiry, the report of the Enquiry Officer with the arguments addressed before me my finding on Point No. 1 is in the affirmative, Point No. 2 as does not survive for consideration and Point No. 3 as per final order for the following reasons:

REASONS

9. The learned advocate appearing for the I party while taking me through the charges levelled against the I party and the evidence let in by the management in the DE urged that in the first instance there is no evidence that I party was entrusted with duties of counter clerk to make entries in the Register, secondly none of the account holders complained any loss or hurt being caused to them and moreover Usha Rani/BW 1 having categorically stated vouchers passed by her for Rs. 1000.00 dated 13.01.1999, 10.02.1999 are genuine. Therefore, allegations that these credits were fictitious false to the ground. He further taking me through the evidence of Jeeva/BW 2 urged except saying

initials resembled to that of CSE did not make any other imputation to the CSE as such on such a evidence in the absence of any other evidence especially of handwriting expert such entries cannot be held to be in the handwriting of CSE. He further taking me through the evidence of Mohan Dass/BW 3 urged that he do not impute anything to the CSE. He further taking me through the evidence of M A Azeez/BW 4 as admitted by himself he has no knowledge about the transaction as such his evidence is of no avail to the management to bring home the charges levelled against the CSE. He further taking me through the evidence of Jayalakshamma/BW 5 since he too does not impute anything to CSE and on the other hand in her cross-examination having confirmed all transactions being genuine the finding of the Enquiry Officer in the presence of such evidence charge No. 1, 2, 3 and 5 are proved being not only baseless are the perverse findings as such the enquiry finding deserves to be set aside and consequently the punishment imposed against the I Party. *Inter alia*, the learned advocate appearing for the II Party without giving any answer to the learned advocate of the I party urged the finding of the Enquiry Officer being based on the evidence placed before him also urged that under Section 11(a) court can interfere only in case of discharge and dismissal and in the case of compulsory retirement there cannot be any interference.

10. As urged by the learned advocate for the I party BW 1G Usha Rani, the then Deputy Manager of the Kolar Branch having deposed in her evidence withdrawal dated 13.01.1999 from Account No. 59/20393 was passed by her under Sl. No. 83 and that she cannot say whether the handwriting in the withdrawal slip is that of the CSE and that the voucher passed by her is genuine and further referring to withdrawal slip dated 15.12.1998 for Rs. 2000.00 relating to account No. P11/17758 of Chikkamuniyamma she passed it under Sl. No. 49 and that LTM of the Depositor was identified by the CSE on the reverse of the withdrawal slip and that she is not sure whether the handwriting in the withdrawal slip is that of CSE and she further states that the initials against the entry in the ledger sheet pertaining to this transaction also do not tally with the initials of the CSE. She further referring to the withdrawal slip of Rs. 1000 dated 10.02.1999 Nagamma, P/11/22981 states that she passed the same and the signature of the depositor resembles with the specimen signature and token no. 144 issued was not authenticated and the posting initials not pertains to CSE and the said transaction is genuine. In her cross-examination she has stated initials appearing on BEx-1 dated 13.01.1999 and BEx-3 dated 10.02.1999 for having posted the vouchers resembles each other and that BEx-2 dated 15.12.1998 which she passed has no relevance with alleged entry of Rs. 20000.00 but she cannot positively say that the entry in the progressive sheet being that of CSE. Thus, according

to her the transactions under BEx-1, 2 and 3 are all being genuine and she has passed them for payment, absolutely, there is nothing in her evidence against the CSE to hold him guilty of the charges. Now coming to the evidence of BW 2 Jeeva, he has stated no initials is available for having issued token voucher (withdrawal slip) on the debit slip dated 03.11.1997 amounting to Rs. 5000.00 and that initials for posting appears to be of CSE and that he has passed the withdrawal and he further stated the handwriting in the ledger relating to this transaction also the resembles the handwriting of CSE (Shama Rao). Thus in his evidence also except the initials on the posting and handwriting in the withdrawal slip resembles as that of CSE there being nothing such a vague evidence without a specific evidence of a handwriting expert such evidence is of no avail to the Bank to prove the charges against the CSE. On the other hand he having stated in his cross-examination he has initialled in the ledger sheet for having passed and also checked the balance in the respective places with reference to BEx-4 Account No. 17758 his evidence is of no avail to the bank to prove the charges levelled against the CSE. Now coming to the evidence of BW 3 M Mohan Dass, Manager, RRB Cell, Head Office, he states referring to the ledger sheet 20393 relating to SB Account No. of Smt. Narayanamma that there is entry of Rs. 1300 on 09.09.1998 posted as by Cash that he cannot make out the handwriting and that he confirms the three credit slips dated 09.01.1999 pertaining to account No. 59/20393 for Rs. 2000.00, 14.01.1999 for Rs. 1000.00 and for Rs. 2000.00 dated 09.02.1999 being not available he reported about the non stitching of slip bundles and the consequences of the controller on several occasions and as he further expressed his inability to identify the handwriting the Presenting Officer sought permission to examine other witnesses and thereby in his evidence there being nothing to impute against the I Party to hold him guilty of any of the charges levelled against him Presenting Officer practically admitted his evidence being irrelevant. Now coming to the evidence of BW 4, M A Azeez, Manager, Agricultural Banking Department who claims to have worked in Kolar Branch from 26.06.1997 to 03.06.1998 since deposed that he has no knowledge since the transaction in question are not pertaining to his period his evidence is also of no avail to the bank to prove any of the charges against the I Party. Now coming to the evidence of BW 5 Jayalakshamma, who was working as Typist-cum-Clerk from 16.01.1979 to 08.07.2001, she was brought to state whether the handwriting of Original Withdrawal slip of dated 09.01.1999 of Rs. 2000.00 pertaining to SB Account 59/20393 of Narayanamma and the corresponding voucher and ledger sheet and for this the Defence Representative did object that she is not competent to depose about it but inspite of it she was allowed to give the evidence and she stated that she is not able to identify as to who has prepared the

withdrawal slip as well as the initials and handwriting in the SB Ledger Sheet thereby absolutely there is nothing in her evidence as well against the CSE to hold him guilty of any of the charges. With such a evidence brought by the management the Enquiry Officer with surmises the handwriting appears to be that of CSE held charge No. 1, 2, 3 and 5 being proved. Thus as urged by the learned advocate appearing for the I Party absolutely there was no evidence in the enquiry to hold the CSE/I Party responsible for the entries in question and thereby to hold charges 1, 2, 3 and 5 levelled against him being proved. In other words, I fully agree with the arguments advanced by the learned advocate appearing for the I party the finding of the Enquiry Officer Charge No. 1, 2, 3 and 5 are being proved are baseless and perverse. Accordingly, I arrive at conclusion of answering Point No. 1 in the Affirmative. In view of my finding on Point No. 1 in Affirmative *i.e.* the Enquiry Finding Charge No. 1, 2, 3 and 5 are proved as baseless and perverse the Punishment imposed on such finding by the Disciplinary Authority and affirmed by the Appellate Authority do not sustain, I am of the opinion that the Point No. 2 for consideration do not survive.

11. Since the enquiry finding Charge No. 1, 2, 3 and 5 are being proved found to be baseless and perverse on the basis of which the punishment of Compulsory Retirement has been imposed the order of the II Party Compulsorily

Retiring the I party from service deserves to be set aside and he is entitle for Reinstatement. Since his evidence that he could not get any alternative employment after his impugned compulsory retirement remained unrebutted by the management he is entitle for full backwages, continuity of Service and other consequential benefits that he would have received in the absence of impugned Punishment of Compulsory Retirement imposed against him. In the result, I pass the following Order:

ORDER

The reference is allowed holding that the action of the management of SBM in passing the Order of Terminating his Services by Compulsory retirement from the services of the Bank against the workman Shri K M Shama Rao, Cashier-cum-Godown Keeper, State Bank of Mysore, Kolar Branch, Kolar w.e.f. 25.06.2003 being not legal and justified and that he is entitle for Reinstatement with Full Backwages, Continuity of Service and all other consequential benefits that he would have received in the absence of the impugned Punishment of Compulsory Retirement imposed against him.

(Dictated to UDC, transcribed by him, corrected and signed by me on 10th April, 2013)

S. N. NAVALGUND, Presiding Officer

ANNEXURE I

Documents exhibited in the Domestic Enquiry:

BEx.No.	Particulars	A/c No. and Names
01.	Debit 13.1.1999 of Rs. 1000/-	59/20393 of Narayanamma
02.	Debit 3.9.98 of Rs. 2000/-	48/17758 of Chikkamuniyamma
03.	Debit 10.2.99 of Rs. 1000/-	PM 22981 of S. Nagamma
04.	Debit 03.11.97 of Rs. 5000/-	48/17758 of Chikkamuniyamma
05.	Debit 24.6.98 Rs. 5000/-	48/17758 of Chikkamuniyamma
06.	Cash Scrolls 9.9.98 Rs. 1300/-	59/20393 of Narayanamma
07.	Cash Scrolls 9.9.98 Rs. 2000/-	59/20393 of Narayanamma
08.	Cash Scrolls 14.1.99 Rs. 1000/-	59/20393 of Narayanamma
09.	Cash Scrolls 14.1.99 Rs. 2000/-	59/20393 of Narayanamma
10.	Transfer Scrolls 15.11.98 for Rs. 20000/-	48/17758 of Chikkamuniyamma
11.	SB Ledger Sheet	48/17758 of Chikkamuniyamma
12.	SB Ledger Sheet	22981 of Nagamma
13.	SB Pass Book	22981 of Nagamma
14.	Transfer Scrolls 30.12.98	22981 of Nagamma

BEx. No.	Particulars	A/c No. and Names
15.	SB Progressive Sheet	22981 of Nagamma
16.	Bank Receipt scroll 27.2.99	22981 of Nagamma
17.	SB Ledger Sheet	15872 of Govindamma
18.	Cash Scrolls 5.1.99	15872 of Govindamma
19.	Cash Scrolls 10.2.99	15872 of Govindamma
20.	Pass Book	15872 of Govindamma
21.	Debit Slip 6.10.98 Rs. 2000/-	48/17758 of Chickmuniyamma
22.	Debit Slip 8.10.97 Rs. 2000/-	48/17758 of Chickmuniyamma
23.	Debit Slip 6.11.97 Rs. 2000/-	48/17758 of Chickmuniyamma
24.	Debit Slip for Rs. 2000/- dated 5.12.97	48/17758 of Chickmuniyamma
25.	Debit Slip 5.3.98 Rs. 5000/-	48/17758 of Chickmuniyamma
26.	Debit Slip 6.4.98 Rs. 5000/-	48/17758 of Chickmuniyamma
27.	SB A/c opening from 59/20393	59/20393 of Narayanamma
28.	Debit Slip 29.8.98 Rs. 1000/-	59/20393 of Narayanamma
29.	Debit Slip 6.2.99 Rs. 2000/-	59/20393 of Narayanamma
30.	Debit Slip 3.9.98 Rs. 6870/-	48/17758 of Chikkamuniyamma
31.	Debit Slip 26.12.98 Rs. 2000/-	PN 22981 of Nagamma

नई दिल्ली, 11 नवम्बर, 2013

कांआ 2565.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 34/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12012/246/2005-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2565.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of Hyderabad, and their workmen, received by the Central Government on 11/11/2013.

[No. L- 12012/246/2005-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, YESHWANTPUR, BANGALORE

Dated : 10th April, 2013

Present : SHRI S. N. NAVALGUND,
Presiding Officer

C R No. 34/2006

I Party

Sh. Noor Mohammed,
S/o Kasimsab Mamadapur,
Residing of Yogapur,
Bijapur

II Party

1. The General Manager (Operation),
State Bank of Hyderabad,
H.O., Gun Foundry,
Hyderabad-1.
2. The Branch Manager,
State Bank of Hyderabad,
Bijapur, Karnataka.

APPEARANCES

- I Party : Sh. N. S. Narasimha Swamy,
Advocate
- II Party : Sh. S. K. M. Shetty,
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) of Sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-12012/246/2005-IR(B-I) dated 21.07.2006 for adjudication on the following schedule:

SCHEDULE

"Whether the action of State Bank of Hyderabad, Bijapur in terminating the services of Shri Noor Mohammed although he had worked for more than 240 days service during the calendar year 1999, 2000 and in regularizing and absorbing his junior viz. name S/Shri Devadas N. Kulkarni, Prakash Bilagi and Noor Attar casual worker ignoring and overlooking the seniority of Shri Noor Mohammed is justified? If not, to what relief he is entitled to?"

2. On receipt of the reference registering it in CR 34/2006 when notices were issued to both the sides, they entered their appearance through respective advocates. As the I party and his counsel inspite of providing several opportunities/adjournments to file Claim Statement since did not avail the same my learned predecessor on 11.06.2007 taking the Claim Statement not filed posted for the statement of the II party substantiating the impugned action. Accordingly, the learned advocate appearing for the II party filed its Counter Statement on 08.02.2008. Subsequently, the learned advocate appearing for the I party on 02.04.2008 sought permission to file Claim Statement by filing an application along with the Claim Statement and the same came to be allowed on 24.05.2010. Thereafter, the learned advocate appearing for the II party filed additional Counter Statement refuting what is stated in the Claim Statement further affirming what was stated in the first Counter Statement.

3. Thereafter, when the matter came to be posted for Evidence of the II party the learned Counsel while filing affidavit of Siddappa D Kalli, Branch Manager, Bijapur, examined him on oath as MW 1. Thereafter, inspite of providing number of opportunities the I party and his counsel failed to cross-examine him and also to lead any rebuttal evidence or to address arguments and ultimately the matter came to be posted for award after hearing the arguments addressed by the learned advocate for the II Party.

4. In the Claim Statement filed by the I Party it is alleged that he started working as Sweeper on Daily Wages in the

II party Bank at Bijapur in the month of December 1999 and he worked continuously till 30.08.2004, the date on which he was refused employment and that he was paid salary every month by taking signature on the receipts and that the II party with an ulterior motive to get rid of him were not following the basic statutory provisions as contemplated under ID Act. It is further asserted that there exists a practice in the II party bank to absorb the workmen like him in Class IV Cadre and accordingly Juniors to him whose names are mentioned in the Schedule of the reference were extended benefits ignoring his Seniority. Thus he claims his Termination, Refusal to Absorb and regularise is illegal and prays to issue direction to the II party to absorb him in Regular Service.

5. The II party in its first counter statement as well as Second Counter Statement while denying the allegations that I Party continuously served from December 1999 to 30.08.2004, contended that his service was availed for carrying out casual work in the absence of permanent employees and in no calendar year he worked for a period of 240 days and that he has been paid wages for the day worked by him and that there is no practice prevailing in their bank to absorb or regularise the services of such casual workman and his allegation Sh. Devadas N Kulkarni, Prakash Bilagi and Noor Attar were also working as casual workmen and Junior to him are false and that those persons have been recruited in the Bank after their names were sponsored by the Employment Exchange after successful interview by the committee formed by the Bank for the purpose of recruiting sub-staff. Thus, it is contended that I Party has not worked for more than 240 days in any calendar year much less in 1999, 2002 and that the three persons named in the scheduled were junior to him is also false and that he raised a dispute with imaginary allegations and made a false claim. The Branch Manager of the II party Bijapur Branch though filed his affidavit swearing to the contents of the Counter Statement and by examining himself as MW 1 affirmed it, the II party having left the same unchallenged by way of his cross-examination or leading any rebuttal evidence the I party failed to substantiate his claim that he served for more than 240 days during calendar year 1999, 2002 and that there was a practice in the II Party Bank to regularise and absorb such workmen and that his Junior names of which are appearing in the Schedule have been regularised and absorbed ignoring and overlooking his seniority. In the result, I pass the following Order:

ORDER

The reference is rejected holding that the Sh. Noor Mohammed failed to prove that he had worked for more than 240 days during the calendar year 1999, 2002 and that there was a practice to Regularise and Absorb such workmen and the II Party Bank absorbed his Juniors viz., names Sh. Devadas N Kulkarni, Prakash Bilagi and Noor Attar ignoring and overlooking his seniority.

(Dictated to UDC, transcribed by him, corrected and signed by me on 10th April, 2013.)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2566.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्वी रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 59/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं० एल-41012/39/2000-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41012/39/2000-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

Dr. MANJU NIGAM,
PRESIDING OFFICER

I.D. No. 59/2000

Ref. No. L-41012/39/2000/IR(B-I) dated: 07/11-08-2000

BETWEEN

Shri Ram Sahare Lal S/o Shri Pahari Lal
Vill.-Govasi Kahan
P.O.-Wazir Nagar
Distt.-Sitapur (U.P.)

AND

The Divisional Railway Manager (Engineering/
Personnel)
North Eastern Railway
DRM Office, Ashok Marg
Lucknow (U.P.)

AWARD

1. By order No. L-41012/39/2000/IR(B-I) dated: 07/11-08-2000 and its subsequent corrigendum dated

12-12-2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ram Sahare Lal, S/o Shri Pahari Lal, Vill.-Govasi Kahan P.O.-Wazir Nagar Distt.-Sitapur (U.P.) and the Divisional Railway Manager (Engineering/Personnel). North Eastern Railway, DRM Office, Ashok Marg, Lucknow (U.P.) for adjudication.

2. The reference under adjudication is:

"Whether the action of the management of North Eastern Railway in terminating the services of Ram Sahare Lal from 16-5-1985 was legal and justified? If not what relief the workman entitled?"

3. The case of the workman, Ram Sahare Lal, in brief is that he was employed as casual labour/Khalasi in the Engineering Department, Sitapur on 16.09.72 and worked accordingly, till 15.05.85, with artificial breaks for 2228 days in total. It is alleged by the workman that he was retrenched w.e.f. 16.05.85 and was not allowed to work. It has been submitted that the workman completed 151 days continuous working on 30.04.73; but he has not been granted temporary status as per Rule 149 of the Railway Establishment Code. The workman has completed more than 240 days working in the year proceeding retrenchment even then his services have been retrenched without giving any notice or notice pay in lieu thereof in violation to the provisions of Section 25 F of the I.D. Act, 1947. It is also alleged that the management has retrenched his services; but has retained other juniors in service. Accordingly, the workman has prayed that the his termination w.e.f. 16.05.85 be declared illegal and he be reinstated with full back wages.

4. The management of the railways has disputed the claim of the workman by filing its written statement; wherein it has submitted that the workman never completed 120 days so as to make him entitled for grant of temporary status under Rules. It is further submitted that the claim of the workman is stale one is time barred and not maintainable. The management has pointed out directives of the Railway Board dated 22.11.1984; whereby, it was decided that if a casual labourer who was earlier discharged from service on completion of work or for want of further productive work, has not worked on the Railways again in the preceding two complete years, his name should be struck off the casual labour register. Accordingly, the management has prayed that the instant claim of the management is liable to be rejected without any relief to the workman.

5. The workman has filed rejoinder wherein apart from reiterating the averments made by them in their statement of claim he has introduced nothing new.

6. The parties have filed documentary proof in support of their respective cases. The workman has examined himself whereas the management examined Shri Rajeev Pachuri,

Asstt. Divisional Engineer in support of their respective stands. The parties availed opportunity to cross examine the each other's witnesses apart from putting oral arguments.

7. Heard, representatives of the parties and perused entire evidence on records.

8. The authorized representative appearing the workman has submitted that the workman worked with the opposite parties for long time since his engagement, with artificial breaks, and completed mandatory 120 days continuous working, necessary for grant of temporary status as per Rules; but the management has not granted the workman temporary status. Also, it was contended that the workman completed more than 240 days continuous working in the year preceding his retrenchment, even then the management did not complied with the provisions contained in the section 25F of the Act at the time of his retrenchment. It was also argued that the management retained many juniors and terminated the services of the workman.

9. In rebuttal, the management representative has argued that the workman never worked for 120 days in continuous four months so that he could be granted temporary status; moreover it was also contended that the workman himself deserted the workman and the claim is statle one and barred by the limitation. It was also argued that the onus lies on the workman to prove the continuous working of 240 days in preceding one year of his alleged termination in order to claim the benefits of the provisions of section 25 F of the Act.

10. I have given my thought full consideration to the rival contentions of the parties and gone through entire evidence relied by them in support of their case.

11. It is the case of the workman that during his engagement on many occasions, he continuously worked for 120 days in four consecutive months and accordingly, he was entitled for grant of temporary status as per railways Rules; but the management deprived him of said benefit. In this regard he has relied on he has relied on the photocopy of a statement showing list of casual labours who have completed four months continuous service as on 31.3.74 under PWI, Sitaput, paper No. 5/3. The original of the same is not available on record; nor the workman has tried to summon the same; and the management witness in his cross-examination denied to say anything regarding said paper No. 5/3 being it is a management filed affidavit of Gajendra Nath, Assistant Engineer with statement that despite all possible efforts made from all relevant sources, no records relating to the facts alleged in the claim application are available except the Live Register. The relevant extract of the same were submitted by the management, which does not show that workman actually worked for 120 days in four continuous months so that he might have been granted temporary status as per Railway Establishment Rules. Also, from the documents submitted

by the management the contents of the paper No. 5/3 could not be verified.

12. The workman has pleaded that the management retrenched his services without complying with the mandatory provisions of the Section 25F, in spite of the fact that he worked for more than 240 days continuous working in the year preceding his retrenchment, In this regard the settled proposition of law is that in order to invoke benefits of provisions of section 25F of the Act, the onus lies on the workman to prove that he actually worked for 240 days in the preceding twelve months. In support of his working details the workman has filed his original casual labour card. The most of the casual labour card is illegible; however it goes to show that the workman worked from 16.03.84 to 26.09.84 for 179 days thereafter he worked from 20.04.85 to 15.05.85 for 26 days. If these entries are taken to be true then it comes out that the workman worked for 205 days in total from 16.03.84 to 15.05.85.

In Surenderanagar Panchayat and another V. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he not entitled to protection in compliance of section 25-F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under.

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

In the instant case, the workman has pleaded that the management retrenched his services w.e.f. 16.05.85 without observing the provisions contained in Section 25 F of the Act. In this regard as it is evident from above case of law. Hon'ble Apex Court has observed that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination. Therefore, this Tribunal has see as to whether the workman worked for 240 days during preceding 12 months from the date of his alleged termination i.e. 16.05.85. Hence, the tenure of inquiry before this Tribunal is confined to the period from 16.05.84 to 15.05.85 and from the documentary evidence relied on by the workman it comes out that the workman as worked only for 205 days in total in the duration 16.03.84 to 15.05.85.

13. Hence, in view of the discussions made hereinabove, I come to the conclusion that the action of the management of North Eastern Railway in terminating the services of the workman, Ram Sahare Lal was neither illegal nor unjustified as the workman could not produce any cogent evidence about his termination on 16.05.85 or working of 240 days in the year preceding his alleged termination. Accordingly the workman is not entitled to any relief.

14. Award as above.

Lucknow
22nd October, 2013

Dr. MANJU NIGAM, Presiding Officer
नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2567.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केंद्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 32/2011) को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12012/11/2010-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2567.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 32/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 11/11/2013.

[No.L-12012/11/2010-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 23rd September, 2013

Present : K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 32/2011

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman).

BETWEEN

Sri M. Manoharan : 1st Party/Petitioner

AND

Chief General Manager : 2nd Party/Respondent
State Bank of India
Local Head Office
16, College Road
Chennai-600006

APPEARANCE :

For the 1st Party/Petitioner : M/s. Vaidyanathan,
Advocates

For the 2nd Party/Petitioner: M/s. T.S. Gopalan & Co.,
Advocates

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/11/10-IR (B-1) dated 01.04.2011 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of State Bank of India, Local Head Office, Chennai in terminating the services of Sri M. Manoharan w.e.f. 01.05.2008 and not reinstating and not regularizing him as full time General Assistant, is legal and justified? To what relief the workman is entitled?"

2. After receipt of the Industrial Dispute this Tribunal has numbered it as ID 32/2011 and issued notice to both sides. Both sides have entered appearance through their counsel and have filed their claim and counter statement respectively.

3. The case put forth by the First Party in his claim statement is this:

The First Party was appointed by the Second Party Bank as Scavenger in its Arni Branch on 20.09.1995 for a consolidated wages of Rs. 190. Prior to that he was engaged by the same Branch for scavenging work with Rs. 20 a week as wages. Apart from doing scavenging work in the morning and in the evening the FP had been fetching water for the branch and also doing other menial work. By letter dated 04.02.1998 the monthly consolidated wages of the First Party was revised and raised to Rs. 450 per month, fixing his working hours as more than 3 hours but less than 6 hours a day. Wages was again revised Rs. 740 with effect from 01.11.1997 pursuant to 7th Bipartite Settlement dated 27.03.2000. By another revision his salary was later revised to Rs. 1,050 per month. The First Party has requested for upgradation of the wages to 1/3rd scale wages. Rather than doing this the Bank has revised the consolidated wages of the First Party from time to time, depending on the terms of the Bipartite Settlement. The Second Party had agreed to convert all the part time employees to the scale wages as

on 31.12.2005 and also the employees of fixed wages to full time scale with effect from 01.04.2006. Several employees were given full time wages also. Even though the First Party has given a representation to convert him as a full time employee this request was not considered favourably. In the discussion at the Circle Bipartite Meeting held in November 2008 the Second Party had taken a stand that the First Party was not appointed as a part time employee and therefore he could not be given permanent status. The wrongful termination of the First Party by the bank is in violation of all the awards and settlement governing the service conditions of the staff. The petitioner had rendered 240 days of continuous service in a period of 12 calendar months and 480 days of continuous service in a period of less than 24 calendar months and as such he is deemed to have attained permanent status in terms of the Tamil Industrial Establishment (Conferment of Permanent Status) Act, 1981. Since the First Party had demanded conversion from part time to full time employment the Second Party had asked him not to come for work from 01.05.2008. So the First Party had raised the ID before the Conciliation Officer. The First Party is without any employment since 30.04.2008. The Second Party shall be directed to reinstate the petitioner in service and convert as full time employee in terms of circular dated 07.02.2006 w.e.f. 01.04.2001, with back wages, continuity of service and all other benefits.

4. The Second Party has filed counter statement contending as follows:

The ID refers to terminating the services of the First Party when such termination was not made. There is no post known as scavenger in the Respondent Bank; The First Party was engaged under a contract to clean the toilet. He was doing the work in the morning and in the evening. The duration of such work was only 30 minutes. He was engaged for less than 5 hours only in a week. The First Party was not appointed against a permanent part time post. Since he was not doing part time work the question of converting him as full time employee did not arise. Only part time employees employed against regular and permanent post are entitled to conversion as full time employees. The letters and circulars regarding such conversion do not apply to the First Party. The initial engagement of the First Party to the post of scavenger itself is illegal. The Branch Manager did not comply with the various formalities in appointing a person to the post of casual part time workman. The First Party got engagement through backdoor entry. The wages of the First Party was not revised but it was enhanced from time to time due to increase in the prices. The Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act is not applicable to the present case, as the First Party had not worked for 480 days in a block of 24 calendar months and also because the Act is not applicable to the Second Party. The First Party being only a casual daily wage did not sign the attendance register. A settlement

had been arrived at between the staff federation which is a recognized union and the Second Party by which it was agreed to consider the claims of the temporary employees and for appointment of eligible candidates who were engaged during 01.07.1975 to 31.07.1988. Two more settlements were made subsequently. These settlements are to the effect that vacancies arise during 1987 to 1992 should be made available to the temporary employees panel and the vacancies arising during 1988 to 1992 should be made available to the casual or daily wages panel. By a subsequent settlement the panel of temporary employees and daily wages were agreed to be kept alive upto 31.03.1997 for filling up vacancies arising upto 31.12.1994. The settlements were not challenged till now. Appointments were made from the waitlist and the list had lapsed on 31.03.1997 after filling up vacancies as on 31.12.1994. The other waitlisted persons had filed Writ Petitions and these petitions were dismissed. The First Party is not entitled to any relief.

5. The points to be considered are:

- (i) Whether the reference is bad in law?
- (ii) Whether the Management is justified in terminating the services of the First Party?
- (iii) Whether the First Party is entitled to reinstatement in service?
- (iv) Whether the First Party is entitled to regularization as full time general assistant
- (v) Whether the First Party is entitled to any other relief?

6. The evidence in the case consists of the oral evidence of WW1 and WW2 and MW1 and also exhibits to Ex. W1 to Ex. W 25 and Ex. M1 to Ex. M 7.

Point No. (i)

7. The First Party has admittedly been working in the Arni Branch of the Second Party Bank as Scavenger almost from 1992. Ex. W2 is the copy of the order of the Branch Manager stating that the First Party has been appointed as scavenger on a consolidated wages of Rs. 190 per month. The consolidated wages of the First Party seems to have revised from time to time. At the time when he ceased to work in the bank in May 2008 he was drawing a consolidated wages of Rs. 1,050 per month. The case of the First Party is that he had made a request to the Second Party Bank to make his post permanent but rather than making him permanent and giving him salary for the permanent post he was turned out from work. According to him, his demand for conversion from Part Time to Full Time employment had caused him the job itself. He was asked not to attend the work from 01.05.2008. The First Party had stated that his services had been terminated

illegally and without any justification and this is why he raised the ID.

8. The First Party as an individual workman had raised the ID under Section-2A of the ID Act. His cause has not been espoused by any Union.

9. The counsel for the Second Party has argued that since the reference is under Section-2A of the Act this Tribunal is competent to go into the question connected with or arising out of discharge, dismissal, retrenchment or termination of the employees only. According to him this Tribunal cannot consider the question of regularization of the First Party. According to the counsel even if the schedule of reference includes the question of regularization also this could not be considered by the Tribunal. In fact, it could be seen on going through Section 2A of the Act that the right of an individual workman is confined to only certain aspects. Section 2(A)1 states that if any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman any dispute or difference between the workman and his employer connected with or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an ID notwithstanding that no other workman or any Union or workman is a party to the dispute. Thus it is very clear from the Section itself that if the dispute is raised under Section 2A of the Act it can be only one between the workman and his employer connected with or arising out of his discharge, dismissal, retrenchment or termination. This matters if raised by an individual workman are deemed to be an ID under Section 2A of the Act though it is not so in the normal sense and was not considered so before the amendment under Section 2A was brought in.

10. The counsel for the Second Party has referred to the decision in *Newspapers Ltd. Vs. Industrial Tribunal, Uttar Pradesh and Others* reported in 1957 LLJ II 1 in this respect. Here it was held that in spite of the fact that the making of a reference by the government under the ID Act is the exercise of its administrative powers, that is not destructive of the rights of an aggrieved party to show that what was referred was not an ID at all and therefore the jurisdiction of the Industrial Tribunal to make the award can be questioned even though the factual existence of a dispute may not be subject to a party's challenge. So in spite of the fact that the question of regularization also has been referred it need not be considered by the Tribunal, it being not an ID coming under Section 2A of the Act.

11. So far as reference regarding reinstatement of the employee is concerned, it is not disputed by the counsel for the Second Party that this is a reference proper and is in accordance with law. To this extent, the reference is not bad. However, so far as the question of regularization of the employee is concerned, this cannot be considered by the Tribunal for the reason that it is not an "Industrial Dispute" coming under the purview of Section 2A of the Act. The point is answered accordingly.

Point No. (iv)

12. The counsel for First Party has based his argument on Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 to advance his claim that the First Party is entitled to regularization in service. The First Party has stated in the claim statement that he has rendered 240 days of continuous service in a period of 12 calendar months and 480 days of continuous service in a period of less than 24 calendar months and as such he is deemed to have attained permanent status in terms of Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981. Section-3 of the said Act states that every workman who is in continuous service for a period of 480 days in a period of 24 calendar months in an industrial establishment shall be made permanent.

13. The counsel for the First Party has argued that the First Party is entitled to the benefits of Section-3 of the Act. The counsel referred to the relevant provision of the Tamil Nadu Shops and Establishment Act 1947 and tried to distinguish the two enactments to reinforce his case that the benefit of Section-3 of 46 of 1981 of the Tamil Nadu Act is available to the First Party. Section- 2(3) of 1981 Act defines an industrial establishment by referring to those establishments that come under the purview of the Act. Section-2(3)(e) states that an establishment defined under Clause-6 of Section-2 of the Shops and Establishment Act also is an industrial establishment. The above sub-clause of the Shops and Establishment Act refers to certain establishments and states that the State Govt. may notify more such establishments for the purposes of the Act. Section-4(C) of the Shops and Establishments Act exempts the establishments. Under the Central and State Governments, local authorities, RBI, etc. from the purview of the Act. Though banks other than Reserve Bank are not referred to in this exemption, it has been held in the decision in *C.V. Raman Vs. Management of BOI* and another and other cases reported in 1988 3 SCC 105 that nationalized banks like SBI are establishments under the Central Government within the meaning of the exemption clause under Section-4 of the Tamil Nadu Shops and Establishments Act. According to the counsel for the First Party, though this is the case the Banks will come under the purview of the 1981 Act. It is pointed out by the counsel that the Railway and some other establishments have been exempted from the purview of the Act by virtue of Section-9 of the Act and in the absence of any such exemption the Banks will come under the Act.

14. The counsel for the Second Party has not contradicted the argument advanced by the counsel for the First Party that the Banks also will come under the purview of the Tamil Nadu Act. However the counsel has pointed that in spite of this benefit available, the First Party will not be able to take advantage of. It is pointed out by the counsel that this Tribunal is not competent to go into

the question of regularization at all, even assuming that the First Party is entitled to such regularization by virtue of Section-3 of the 1981 Act for the reason that this Tribunal is not competent to look into the question since the reference in this respect is bad in law. In fact the counsel for the First Party has not validly contradicted the argument advanced that the reference in this respect is not valid and could not be considered. So the argument on behalf of the Second Party against grant of benefit under Section-3 of the 1981 Act of Tamil Nadu is to be accepted. I find that in any case the question of regularization of the First Party by this Tribunal does not arise at all even if it is found that he is entitled to reinstatement in service. The point is answered against the First Party.

Point (ii), (iii) and (v)

15. According to the First Party, since the Union and himself have been demanding that he should be converted from Part Time to Full Time employment w.e.f. 01.04.2006 the Second Party had told him not to come for work from 01.05.2008. The argument that is advanced by the counsel for the First party is that the First Party has been terminated from service without any notice to him and without providing any compensation as provided under Section-25G of the Act and is entitled to reinstatement into service with regularization in service. The stand of the First Party is that he being a part time employee is entitled to full time employment even as per the various bipartite settlements entered into between the worker's organizations and the Second Party. The stand of the Second Party is that the First Party has never worked as a part time employee and therefore he is not entitled to the benefits.

16. It is to be seen what actually was the status of the First Party with the Second Party at the time when he was turned out from his job. The counsel for the First Party, with reference to the various documents produced on either side has argued that the First Party has been in the employment of the Second Party on part time basis. The trend of the argument seems to be that the First Party is permanent part time employee, though it is not stated in as many words in the Claim Statement itself. What is stated in the Claim Statement is that the First Party was appointed by the Second Party on consolidated wages of Rs. 190/- at its Arni branch on 20.09.1995. The Claim Statement does not mention on what basis the appointment was made. However, it is very much clear from the Claim Statement itself that the employment of the First Party was not on any particular scale but on fixed wages. In fact before his appointment on consolidated wages of Rs. 190/- the First Party was working for weekly wages of Rs. 20/- for nearly 3 years. As seen from the Claim Statement, apart from doing the work of scavenger in the morning and in the evening the First Party was fetching water for the branch and also performing menial work. It is further stated in the Claim Statement that he had requested for upgradation of wages,

from the consolidated wages to 1/3rd scale wages. As seen from the Claim Statement itself though the branch in which he was working had recommended upgradation of the wages, instead of increasing the wages to 1/3rd scale of pay the bank has chosen to revise his consolidated wages from time to time. There is also the statement in the Claim petition that the Second Party has once agreed to the request of All India State Bank of India Staff Federation to convert all the part time employees and also the employees of fixed wages to full time scale. It could be seen from the above references in the Claim Statement itself that the First Party did not have a specific case at that time that he was a permanent part time employee of the Second Party Bank.

17. Attempt has been made by the counsel for the First Party with reference to documents, that he was holding a permanent post, though part time, in the Bank. Ex.W1-the very first document marked on the side of the First Party would show that the Manager of the branch in which he is working had made a recommendation to the Zonal Office that the First Party be appointed as permanent part time scavenger on a consolidated wage basis. Ex.W2 is a copy of a communication from the branch manager to the First Party stating that he has been appointed as scavenger on a consolidated wages of Rs. 190/- per month. It is not known whether the appointment was with the approval of the Zonal Office. Ex.W3 is a further recommendation to the Zonal Office by the Branch Manager for giving 1/3rd wages to the First Party on account of escalation of prices. The Asstt. General Manager of the Zonal Office, by Ex.W4 letter has directed that consolidated wages of Rs. 440/- per month is payable to the First Party from 20.09.1995. Thus all these communications would show that the wages paid to the First Party was consolidated in nature and that he was not drawing pay based on any scale.

18. Ex.W5 is in fact an admission on the part of the First Party to the effect that he is only a temporary employee and not a permanent one. This is a representation made by the First Party to the employer. In this he has described himself as temporary part time employee. He did not claim in this that he is a permanent part time employee. Ex.W5 is on 21.09.2001. It could be seen that at that time there was no claim for the First Party that he was employed on permanent basis. On the other hand he was very much aware that he is only a temporary part time employee and would not be entitled to the benefits available to a permanent employee.

19. The First Party was being given bonus from time to time, as seen from the documents produced on his side. Ex.W6 would show that he has drawn bonus for the year 2000-2001 alongwith two other employees who too were probably in the same position. Ex.W7 is pertaining to the bonus paid on 29.08.2002. In this the First Party is described as scavenger on consolidated pay while the other worker who was given bonus alongwith him is described as part

time. This would show that the position of the First Party was below even that of this other person mentioned in Ex.W7. In Ex.W8 showing payment of bonus on 28.08.2003 also the First Party is described in the same manner, while his companion is described as part time worker. In Ex.W9 showing payment of bonus on 10.08.2004 also he is described as scavenger on consolidated pay. This is the case with Ex.W10 and Ex.W11 also. I have referred to the above documents extensively to show that the First Party was all along considered as a temporary employee and not as a permanent part time one.

20. The evidence given by the First Party also would reveal the nature of his work. He has stated during his cross-examination that he was working for 3-6 hours per week and he was paid wages ranging from Rs. 190/- to Rs. 440/-. He has then stated that there was one permanent sweeper at that time. During the absence of permanent sweeper only he was engaged. He also stated that he was paid by voucher. Thus, it is admitted by the First Party during his cross-examination that he was engaged not on a permanent part time basis, but only on temporary basis, to work in the absence of other permanent workers.

21. The counsel for the Second Party has referred to the decision of the Apex Court in *Indian Drugs and Pharmaceuticals Ltd. Vs. Workmen, Indian Drugs and Pharmaceuticals Ltd* reported in 2007- I-SCC-408 to point out the distinction between a permanent and temporary worker. As pointed out by the Apex Court a casual or temporary employment is not an appointment to a post in the real sense of the term. Whereas a permanent employee has a right to the post, the temporary employee has no right to the post. It is only a permanent employee who has right to continue in service till the age of superannuation. As regards the temporary employee there is no age of superannuation because he has no right to the post at all. The Apex Court has further observed that the person who accepts an engagement either temporary or casual in nature accepts it with open eyes and is very much aware of the nature of his employment.

22. In fact there is nothing in evidence to show that the First Party was employed as a permanent part time worker.

23. The counsel for the First Party has argued that in any case Section-25F of the ID Act is not complied with while terminating the services and therefore the worker is entitled to all the benefits. The counsel has referred to the decision of the Apex Court in *Divisional Manager, New India Assurance Co. Ltd. Vs. Sankaralingam* reported in 2008-10-SCC-698 in this respect. The counsel pointed out that the Apex Court has held in this that a workman employed on a part time basis but under the control and supervision of an employer is a workman in terms of Section-2(S) of the Act and is entitled to claim protection thereof. The counsel has also referred to the later decision of the Apex Court in *Harjinder Singh Vs. Punjab State Warehouse*

Corporation reported in 2010-3-SCC-192. Here, though the Labour Court had found the termination unlawful and awarded reinstatement with 50% back wages, the High Court had substituted the award of reinstatement with payment of compensation. The Apex Court has set aside the order of the High Court and restored the award of the Labour Court. The counsel had also referred to an unreported decision of the Madras High Court ordering reinstatement in a similar case. The counsel for the Second Party had pointed out that the decision in *Harjinder Singh's* is no longer good law. He has referred to the decision of the Apex Court in *Asstt. Engineer, Rajasthan Development Corporation Ltd. Vs. Gitam Singh* reported in 2013-2-LLJ-141 (SC) in this respect. It was a case where the workman had worked for 8 months as daily wager and was terminated from service. The Labour Court had ordered reinstatement with continuity in service. It was found by the Apex Court that the award of reinstatement is not proper and compensation would meet the ends of justice. In this case the Apex Court had referred to *Harjinder Singh's* referred to earlier also. Referring to an earlier case the Apex Court has held that in a catena of decisions it has laid down that although an order of retrenchment is passed in violation of Section-25F of the ID Act an award of reinstatement should not be passed. The Court has also observed referring to *Harjinder Singh's* case that it was not the case of a daily rated worker. It could be seen that the Apex Court has made a distinction between a daily rated or temporary worker and a part time worker, while considering reinstatement.

24. The counsel for the First Party has referred to the various Bipartite Settlements between the Second Party and the Staff Federation regarding permanent employment on part time employees. The Bipartite Settlements are marked as Exs.M1 to Ex.M4. Ex.M5 is the minutes of the conciliation proceedings between the bank and the Union. Though the counsel for the First Party has been stating that the Bipartite Settlements are not binding on him since they were entered into before his employment, he has been referring to these settlements also in support of his case. As could be seen from the Bipartite Settlements, the Staff Federation had been attempting to make part time employees who were working for a long time permanent. The First Party would not fall under the terms of the settlement and that is why his job was not made permanent.

25. It is pointed out by the counsel for the Second Party that even assuming that the First party is entitled to reinstatement in service, his position on reinstatement would be that of a temporary part time employee as he earlier was and that his position would not improve on reinstatement. He has pointed out that the First Party is not willing to accept this position on reinstatement. He has referred to the evidence of the First Party in this respect. He has stated during his cross-examination that he is not willing to accept the post of temporary scavenger to be

engaged against the absence of permanent scavenger. This probably is because the First Party is even now employed in a more beneficial manner than that of a temporary scavenger with the Second Party Bank. In the additional Proof Affidavit filed by him, he has stated that he is now employed as ATM Security Guard and is getting Rs. 2,750/- per month. So there is no question of the First Party accepting the post of a temporary scavenger as he was earlier.

26. The counsel for the Second Party has referred to the decision of the Madras High Court reported in Baskar and Others Vs. Auto Care Centre reported in 2003 1 LLJ 700. It was held here that since the workers were not interested to join in the original post as casual labourer, the Labour Court has rightly rejected the claim for reinstatement. It was found that the workers are eligible only to retrenchment compensation. In the cases referred to earlier, the Apex Court has awarded compensation.

27. There is the fact that the First Party has been working as Scavenger in the Arni branch of the Second Party for several years though only as a temporary worker. He has been carrying out his duties properly during all these years. He was turned out from work as his demand to be made permanent could not be met and that also without any notice and without any compensation. So the First Party is entitled to compensation from the Second Party. The amount payable as compensation is fixed as Rs.1,00,000/-. The Second Party is directed to pay the amount within one month failing which it will carry interest at the rate of 9% per year.

28. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 23th September, 2013).

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : W W 1, Sri M. Manoharan
Petitioner WW2, Sri C.S. Raja

For the 2nd Party/ : MW1, Sri S. Shanmugam
Management

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
Ex. W 1	04.07.1995	Recommendation letter of the Respondent Bank
Ex. W 2	20.09.1995	Appointment order of the petitioner
Ex. W 3	01.10.1996	Recommendation for enhancement of wages
Ex.W 4	04.04.1998	Bank's letter enhancing petitioner's wages
Ex.W 5	21.09.2001	Representation of the petitioner
Ex.W 6	29.08.2001	Bonus paid for the accounting year March 01

Ex.W 7	29.08.2002	Bonus paid for the accounting year March 02
Ex.W 8	28.08.2003	Bonus paid for the accounting year March 03
Ex.W 9	10.08.2004	Bonus paid for the accounting year March 04
Ex.W 10	12.09.2005	Bonus paid for the accounting year March 05
Ex.W 11	22.09.2006	Bonus paid for the accounting year March 06
Ex.W 12	-	Arrears of wages paid to the petitioner
Ex.W 13	-	Extract of Codified Circular of the respondent Bank
Ex.W 14	07.02.2006	Bank Circular No. PER 115-Conversion of part time Employees to full time
Ex. W 15	21.03.2006	Representation of the petitioner with covering letter of Branch Manager
Ex.W 16	19.05.2007	Branch Manager Letter confirming petitioner's permanent appointment
Ex.W 17	23.10.2007	Wages paid to the petitioner on par with each wage revision
Ex.W 18	11.01.2008	DGM letter to the HR Department
Ex.W 19	-	SBSU letter on conversion of petitioner from part time to full time
Ex.W 20	03.03.2009	Minutes of the Bipartite settlement
Ex.W 21	-	Petition under section 2A of the ID Act
Ex.W 22	10.11.2009	Letter of the petitioner authorizing union representative
Ex.W 23	15.10.2009	Conciliation Notice
Ex.W 24	-	Respondent management reply
Ex.W 25	-	SB account pass book and statement

Documents Marked:

On the Respondent's side

Ex. No.	Date	Description
Ex.M 1	17.11.1987	Settlement u/s 18(1) of ID Act
Ex.M 2	16.07.1988	Settlement u/s 18(1) of ID Act
Ex.M 3	27.10.1988	Settlement u/s 18(1) of ID Act
Ex.M 4	09.01.1991	Settlement u/s 18(1) of ID Act
Ex.M 5	09.06.1995	Minutes of conciliation proceedings between the Bank and the Union on the charter of demands/proposed strike call by union
Ex.M 6	30.07.1996	Settlement u/s 18(1) of ID Act.

नई दिल्ली, 11 नवम्बर, 2013

कांआ० 2568.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार कर्नाटका विकास ग्रामीण बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, बेंगलूर के पंचाट संदर्भ संख्या 93/2007 को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12012/26/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 93/2007 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Karnataka Vikas Grameena Bank, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12012/26/2007-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, YESWANTHUR, BANGALORE

Dated: 4th October, 2013

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer

CR No. 93/2007

I Party

Shri Suresh B Hosamani,
S/o Late Sri Buddavva,
C/o Sri A Y Shiraguppi
K B Nagar,
HUBLI-580028.

II Party

The General Manager,
Karnataka Vikas Grameena
Bank, P & HRD Division,
IR Cell, Head Office,
Belgaum Road,
DHARWAD-580 008.

APPEARANCES

I Party : **Shri Y. G. Muttagi,**
Advocate

II Party : **Shri B. C. Prabhakar**
Advocate

AWARD

1. The Central Government *vide* order No. L-12012/26/2007-IR (B-I) dated 27.07.2007 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

"Whether the order of punishment imposed on Sri Suresh B Hosamani dismissing him from the services *vide* order dated 29.12.2004 of the management of Karnataka Vikas Grameena bank is legal and justified? If not, to what relief the workman is entitled to?"

2. On receipt of the reference while registering it in CR 93/2007 when notices were issued to both the sides the I party workman entered his appearance through

Sh. Y G Muttagi, Advocate and II Party/Management through Sh. B C prabhakar, Advocate and claim statement of the I party came to be filed on 09.01.2008 and the counter statement of the II Party on 19.05.2010.

3. In the claim statement filed by the I Party it is contended that after issuing the charge sheet he told that he has not committed any misconduct as alleged in the charge sheet but the officials of the management did not accept the reply which was prepared and forced him to give the reply as per dictation given by them assuring that no action will be taken and that he was not supplied with the list of documents and list of witnesses and though he requested to conduct the enquiry in the Kannada Language it was not conducted in kannada language and that he was not explained with the procedure of the enquiry and that he was not provided with sufficient opportunity to cross-examine the management witnesses and give his evidence and that the enquiry finding is perverse. Inter alia in the counter statement filed by the II party while denying the allegations that reply to the charge sheet was taken to the dictation of the management officials contending that he has given voluntarily the reply admitting the charges and that he was provided with opportunity to cross-examine the management witnesses and also to lead evidence which was not availed by him and the enquiry Officer considering the evidence placed before him having given report the charge being proved there is no reason to interfere either in the Domestic Enquiry or the finding of the Enquiry officer as well as the punishment imposed which is appropriate against the misconduct proved against him.

4. Having regard to the allegations in the claim statement touching the fairness of the Domestic Enquiry while framing the Preliminary Issue as to

"Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?"

after receiving the evidence adduced by the management through the Enquiry officer and exhibiting Ex M-1 to Ex M-26, after affording the opportunity to cross-examine him since same was not availed dispensing with his cross-examination and providing further opportunity to lead rebuttal evidence when that was also not availed having regard to the evidence of the Enquiry Officer and the documents exhibited in the evidence on preliminary Issue, the Preliminary Issue came to be answered in the affirmative on 28.04.2011 i.e., the Domestic Enquiry conducted by the II Party against the I Party being fair and proper.

5. After holding the Domestic Enquiry fair and proper though several opportunities were given to the I Party and his counsel to address arguments to demonstrate the Enquiry finding being perverse or the punishment imposed is disproportionate to the misconduct proved against him the same was being not availed the arguments addressed by the learned advocate appearing for the II party were

heard who supported the enquiry finding as well as the punishment imposed.

6. The I Party while working as Cleark cum Cashier at Sullia Branch of the II party by Order dated 26.05.2003/Ex M-1 kept under suspension and after he submitted a letter dated 25.06.2003/Ex M-2 admitting that on 26.05.2003 he did misappropriated a sum of Rs. 59500.00 and has credited out of it Rs. 56150.00 to the concerned account he was served with charge sheet dated 31.07.2003/Ex M-3 as under:

"CHARGE SHEET"

Whereas you have been placed under Suspension *vide* order bearing reference No.MGB-HQ/IRD/890/2003 dated 24.05.2003 for the alleged acts of misappropriation of Bank's funds etc.

Whereas the undersigned is empowered to initiate disciplinary action and conduct departmental enquiry under Regulation No. 38 of Netravati Grameena Bank (Officers & Employees) Service Regulation, 2001.

Whereas it is proposed to hold an Enquiry against you under Regulation No. 38 of Netravati Grameena Bank (Officers & Employees) Service Regulations, 2001 in the matter of alleged misconduct of misappropriation of Bank's funds etc.

Whereas the Articles of Charges and Statement of Imputations of misconduct in respect of which the enquiry is proposed to be held are mentioned here below:

ARTICLES OF CHARGES

That you were functioning as Cleark-cum-Cashier at our sullia branch since 14.05.2002 and while functioning in your position as such, you misappropriated Bank's funds amounting to Rs. 63,150/- by resorting to misdeeds of fraudulent nature more fully detailed here below in the Statement of Imputation of Misconduct:

By your above acts, you have failed to serve the Bank honestly and faithfully and also failed to use your utmost endeavour to promote the interest of the Bank which constitute breach of Service Regulations under the provisions of Regulation No. 17 and 19 read with regulation No. 38 of Netravati Gramenna Bank (Officers & Employees) Services Regulations, 2001.

Now therefore, you are hereby directed to submit your written statement of defense, if any, within 15 days of receipt of this charge-sheet showing cause as to why regular departmental action should not be taken against you.

Statement of Imputations of Misconduct

I. You were functioning as clerk-cum-cashier at Sullia branch since 14.05.2002 and while functioning in your position as such, you misappropriated Bank's funds by resorting to misdeeds of fraudulent nature as under:

- (i) By not accounting in the Books of the bank and by not releasing the cash vouchers in respect of cash deposited by the customers:

Whenever the customers of the Bank tendered cash at the cash counter along with the cash voucher, you used to accept the cash and make entry in the pass book and/or ledger sheet and dispose off the customers. You never used to record in the cashier's scroll and never made entry in the concerned deposit or loan ledgers, day book etc. and never used to release the cash vouchers and misappropriated the amount in such cases. The details of the account in respect of which you have misappropriated the cash by not accounting and releasing the cash vouchers are as under:

Sl. No.	Name of the Account holder	Date of Deposit of cash	Type of account & A/c. No.	Amount tendered at the cash counter & misappropriated
1	2	3	4	5
1.	Smt Neelavathi	21.10.2002	SB-165	Rs. 2500
2.	Sri ishwar Kumar Bhat	14.05.2003	Mangala Deposit-107	Rs. 2000
3.	Sri Thirthrama AV	05.02.2003	SB-71	Rs. 7900
4.	Sri Keshava Kekunnaya	14.12.2002	SB-563	Rs. 3000
5.	Sri N. Seetharama	25.01.2003	SB-927	Rs. 2000
6.	Sri Yashawantha GB	10.04.2003	SB-952	Rs. 2500
7.	Sri A V Harish Kumar	09.11.2002	SB-911	Rs. 1500
8.	Sri Sadananda Nayak	17.10.2002	SB-602	Rs. 1000
9.	Sri B Venkappa Gowda	28.10.2002	SB-844	Rs. 4500
10.	Sri Suresh Kumar	09.09.2002 11.09.2002	SB-316 SB-316	Rs. 6000 Rs. 1500
11.	Sri Poppy Johny	29.08.2002	SB-213	Rs. 2000
12.	Smt Kamala	16.11.2002	SB-264	Rs.3750
13.	Sri Santosh Kumar EN	24.12.2002	SB-974	Rs. 2000
14.	Smt Sheelavathi	03.03.2003	SB-518	Rs. 2000
15.	Smt K K Pramoda	24.03.2003	SB-348	Rs. 1000
16.	Sri H Shashidhar Rao	16.05.2003	Loan RT 11/03	Rs. 1000

The following circumstances appear against you in the above transactions:

1. Cash vouchers in respect of cash deposited by the customers are not available in the branch and not accounted in cash book and Day book whereas counterfoils issued by you to customers, pass book entries show that you had received said amounts. As such you had destroyed/caused destruction of relevant credit vouchers/Bank's records and misappropriated the cash deposited by the customers of the Bank.

2. As and when the account holders came to the branch subsequently along with the Pass Book it came to lights that you have misappropriated the Bank's funds and not released the relevant such vouchers but did only the entries in the Pass Book for having received the cash, thereby failed to account for in the Books of Account.

3. When the said acts came to light you have on your own credited back to the respective accounts the amount so misappropriated, the details of which are as under:

Sl. No.	Type of A/c & A/c. No.	Name of the account holder	Amt. tendered at the cash counter & misappapropriated	Credited on
1.	SB-165	Smt. Neelavathi	Rs. 2500	25.6.03
2.	Mangala Deposit-107	Sri Ishwar Kumar Bhat	Rs. 2000	25.6.03
3.	SB-71	Sri Thirthrama AV	Rs. 7900	25.6.03
4.	SB-563	Sri Keshava Kekunnaya	Rs. 3000	26.6.03
5.	SB-927	Sri N Seetharama	Rs. 2000	26.6.03
6.	SB-952	Sri Yashawantha GB	Rs. 2500	25.6.03
7.	SB-911	Sri A V Harish Kumar	Rs. 1500	25.6.03
8.	SB-602	Sri Sadananda Nayak	Rs. 1000	26.6.03
9.	SB-844	Sri B Venkappa Gowda	Rs. 4500	25.6.03
10.	SB-316 SB-316	Sri Suresh Kumar	Rs. 6000 Rs. 1500	25.6.03
11.	SB-213	Sri Poppy Johny	Rs. 2000	25.6.03
12.	SB-264	Smt. Kamala	Rs. 3750	25.6.03
13.	SB-974	Sri Santosh Kumar E N	Rs. 2000	25.6.03
14.	SB-518	Smt. Sheelavathi	Rs. 2000	25.6.03
15.	SB-348	Smt. K K Pramoda	Rs. 1000	25.6.03
16.	Loan RT 11/03	Sri H Shashidhar Rao	Rs. 1000	21.7.03

4. You have not entered in the prescribed Cashier's Scroll, the receipt of cash in respect of any of the above cash transactions and consequently it has not been recorded in the Day Book and also not accounted in the Bank, the

transaction on the respective dates. Whereas Credit entries have been made in the ledger sheets in respect of above 3 to 15 dealings referred above. The transactions under Sl. No. 1, 2 and 16 were not entered in the ledger. SB balancing has been tallied by taking fictitious page total in order to conceal the misappropriation.

From the above circumstance appearing against you, it has come to light that you have misappropriated Bank's funds by resorting to misdeeds of fraudulent nature.

II. In respect of following accounts you have released the cash receipt vouchers for amounts lessor than the amount actually deposited by the customer but at the same time made entries in the Pass Book for the actual amount of cash deposited by the customers, thereby misappropriated part of the amount deposited into the Bank.

Sl. No.	Name of the A/c Holder	Date of deposit of cash	Type of account & A/c No.	Amount tendered at the cash counter
1	2	3	4	5
1.	Sri A V Harish Kumar	15.10.02	SB-911	7000
2.	Sri Ramkrishna Bhat	09.04.03	SB-43	20000
3.	Sri Janardhana Kathyal	11.04.03	SB-601	15000
Amount acctu-ally credited to account		Amount misappropriated	Date of recredit	Amount recredited
6.	7.	8.	9.	
5000	2000	25.6.03	2000	
10000	10000	25.6.03	10000	
10000	5000	25.6.03	5000	

The following circumstance appear against you:

1. The Ledger entries in respect of (1) and (3) above appears to have been altered subsequently to a lesser amount.

2. The Credit slips of lesser amount were prepared by you and entered in cash book and day book. The original credit slips are not available in the Bank.

3. You have destroyed/caused destruction of credit vouchers/Bank's records. Amount so entered in the ledger sheet has not been accounted in cash scroll/day book and SB balancing has been tallied by taking fictitious page totals in order to conceal the misappropriation.

4. On verification of pass books produced by the customers, subsequently, it came to light that you have misappropriated the bank's funds by not crediting the actual amount tendered by the customers on the same day.

5. When the irregularity came to light you have on your own credited back the amount on 25.6.2003 to the Cash Misappropriation on Account which in turn credited to the respective accounts.

In the above circumstances it is indicative that you have misappropriated the Bank's funds.

III. You have *vide* letter dated 25.6.2003 addressed to the Branch Manager of Sullia Branch admitted that you have credited Rs. 59, 500/- to Cash misappropriation account out of which Rs. 56,150/- has been appropriated to different accounts of customers. You have also undertaken to reimburse the amount to the Bank, if found misappropriated by you in future.

The above circumstances go to show that you have misappropriated banks funds, resorted to falsification of records, destroyed/caused destruction of credit vouchers/ Banks records.

IV. You above acts have resulted in the Bank being deprived of legitimate interest income which the Bank would have otherwise earned by beneficial deployment of funds.

V. By your above acts, account holders have suffered loss of interest in accounts which the Bank is obliged to make good to them.

VI. Fair name and image of the Bank is tarnished due to your above Acts.

Yours faithfully,

Sd/-

DISCIPLINARY AUTHORITY.

C.C. To: The Branch Manager, Sullia branch-Please arrange to deliver original of this charge sheet to the employee against his acknowledgement. If he does not turn up at the branch; you may send the same to his last known residential address by Registered Post Acknowledgement Due. Please confirm the date of postal delivery of the Charge Sheet to the employee, at the earliest.

Sd/-

DISCIPLINARY AUTHORITY"

7. The Enquiry Officer after observing the formalities of the Preliminary hearing and receiving the evidence of Sri Ramachandra Naik, Sri K. Ramakrishna Bhat, Smt. Neelavathi, Sri Shashidhara H and Sri Ramakrishnan Rao K for the Management as MWs 1 to 5 and exhibiting MEx 1 to MEx 136 when the I Party submitted that he has no evidence after affording opportunity to file return submissions submitted his finding dated 10.09.2004/Ex M-16 holding all the six charges being proved. Thereafter the

Disciplinary Authority while issuing second show cause notice affording opportunity of hearing imposed the punishment of dismissal by his Order dated 29.12.2004/Ex M-24 and same came to be affirmed by Appellate Authority on the appeal preferred by the I Party by his order dated 24.02.2006/Ex M-26.

8. It is borne out from the records that on II Party placed the I Party under suspension by order dated 26.05.2003 the I party has given letter admitting the misappropriation of Rs. 59,500.00 and making good a sum of Rs. 56,150.00 by crediting it to the concerned account a detailed charge sheet was served on him as per Ex M-3 and there also by a letter in his own handwriting/Ex M-6 he admitted the charges levelled against him. In spite of it the Enquiry Officer while receiving the evidence of Sri Ramachandra Naik, Sri K Ramakrishna Bhat, Smt. Neelavathi, Sri Shashidhara H and Sri Ramakrishnan Rao K and MEx-1 to MEx-136 after receiving the written submissions of both the sides submitted his detailed enquiry finding on 10.09.2004. Prima Facie, in view of the clear cut admissions made by I Party through letters in his own handwriting exhibited as Ex M-2 and Ex M-6 further corroborated by the evidence of the management witnesses the Enquiry Officer did not commit any error in holding the charges being proved. When the Domestic Enquiry is held fair and proper and the allegations of the I Party that the reply to the suspension order and the Charge sheet was managed to be taken by the officials of the II party being not proved and the Domestic Enquiry issue came to be answered in favour of the management it was for the I Party to demonstrate how the enquiry finding is perverse and not acceptable. As already adverted to by me above in spite of providing sufficient opportunity to address arguments on the perversity of the enquiry finding or the punishment imposed being disproportionate to the misconduct proved same being not availed, I have no reasons to say that the enquiry finding is perverse or the punishment imposed is disproportionate to the misconduct of misappropriation by the I Party. Under the circumstances, I have arrived at conclusion there being no reason to interfere either in the enquiry finding or the punishment imposed for the misconduct of misappropriation proved against the I party. In the result, I pass the following:

ORDER

The reference is Rejected holding the order of punishment imposed on Sri Suresh B Hosamani dismissing him from the services *vide* order dated 29.12.2004 of the management of Karnataka Vikas Grameena Bank is legal and justified and that he is not entitled for any relief.

(Dictated to UDC, transcribed by him, corrected and signed by me on 4th October, 2013)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

AWARD

का.आ. 2569.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 69/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-41011/41/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 69/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41011/41/2012-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

Dr. MANJU NIGAM,
Presiding Officer

I.D. No. 69/2012

Ref. No. L-41011/41/2012-IR(B-I) dated: 21.08.2012

BETWEEN

The President

RMU

C/o Hemraj Sharma

H.No. 570/66, Gopalpuri

Alambagh

Lucknow.

(Espousing cause of Amrit Lal & 25 others)

AND

1. The Divisional Railway Manager
Northern Railway
DRM Office
Hazratganj
Lucknow.
2. The General Manager
Northern Railway
Baroda House
New Delhi.

1. By order No. L-41011/41/2012-IR(B-I) dated 21.08.2012 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the President, RMU, C/o Hemraj Sharma, H.No. 570/66, Gopalpuri, Alambagh, Lucknow and the Divisional Railway Manager, Northern Railway, DRM Office, Hazratganj, Lucknow & the General Manager, Northern Railway Baroda House, New Delhi for adjudication.

2. The reference under adjudication is:

"Whether the demand of the Union for appointment of Shri Amrit Lal S/o Shri Chandra Pal and 25 others (list enclosed) who have worked as sub-station porters, is legal and justified? To what relief the union/workman are entitled?"

3. The order of reference was endorsed to the President, RMU, C/o Hemraj Sharma, H.No. 570/66, Gopalpuri, Alambagh, Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward a copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in the Tribunal on 11.09.2012 and the office was directed to issue registered notice to the workman's union for filing the statement of claim with list of reliance & list of witnesses on 11.10.2012; but no statement of claim together with documents etc. was filed on 11.10.2012, in spite of registered notice dated 17.09.2012; and the next date 08.11.2012 was fixed for further order. On 16.11.2012 the management filed its authority in favour of Shri U.K. Bajpai, Advocate, which was taken on record. On the date fixed *i.e.* on 08.11.2012, none turned up from union. Likewise, the union kept itself absent on 14.01.2012, 30.01.2013, 20.03.2013, 07.05.2013, 08.07.2013 and 06.09. 2013. The union did not move any application or adjournment seeking time to file the statement of claim. More than a year's time has passed and the woman's union has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workman's union to contest the case.

6. In the above circumstances, it appears that the workman's union does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workmen's union. Resultantly no relief is required to be given to the workmen concerned. The reference under adjudication is answered accordingly.

8. Award as above.

LUCKNOW.

09th September, 2013.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ 2570.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 80/88) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-41012/46/86-डी-2 (बी)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 80/88) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of South East Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41012/46/86-D-2(B)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/80/88

PRESIDING OFFICER: SHRI R.B. PATLE

Shri L. Ramulu,
Truck Khalasi,
Railway Qr. No. 11/13-B,
Kirandul, PO Kirandul,
Distt. Bastar

Workman

Versus

Divisional Railway Manager,
S.E. Railway,
Waltair Division,
PO Waltair,
Distt. Vizag (AP)

Management

AWARD

Passed on this 9th day of July, 2013

1. As per letter dated 22-7-80 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under

Section-10 of I.D. Act, 1947 as per Notification No. L-41012/46/86-D-2(B). The dispute under reference relates to:

"Whether the demand of Ramulu, Truck Khalasi working under PWI, Kirandul, S.E. Railway is legal and whether he be granted permission to resume duties. If not, to what relief the workman is entitled for".

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. The case of Ist party is that he was employee of S.E. Railway, Waltair division, he was posted as Truck Kahalasi in Inspector of works, Kirandul. That he was permanent employee and was confirmed. He was discharging duties to the satisfaction of his superiors. That he was active member of Union. Mr. M.N. Nair was Secretary of the Union called S.E. Railway Mens Congress, Branch Kirandul. That workman was member of another Union. That Mr. Nair was annoyed with applicant and implicated in false charges to take revenge. It was alleged that on 21-1-83, when IOW Mr. Nair was trollying between BCHL-BHNS for inspection, it was noticed that Ramalu was going for duty very late. In question by him, he arrogantly replied to him asking him to go back to headquarters. The workman was called to attend his office on 21-1-83 at Kirandul. When the workman entered chamber of Mr. Nair, he was abused in filthy language. Workman claims that he was going for duty and he has not abused anybody. Workman was immediately suspended by Mr. Nair and confirmation of suspension order was got from Asstt. Engineer.

3. The order of suspension was issued on 22-1-83. The workman was under suspension till 17-2-83 for period of 25 days. The management conspired and claimed that workman had submitted resignation in duplicate with a view that his resignation should be accepted. Workman challenges the action of management preparing of a false resignation letter of workman for victimizing him. The documents were fabricated causing harm to the workman. It is submitted that in pursuance of acceptance of resignation, workman was not allowed to attend duties. His claim that the thumb impression of workman was obtained under the pretext that the application for leave was to be written on blank paper in which his thumb mark was obtained. That his repeated request were not paid any attention. He was also allowed to join duty, no enquiry was conducted against him. Workman has not submitted resignation. Management also committed act of victimization. That his services cannot be terminated without notice or holding Departmental Enquiry. That his competent authority is DRM. IOW or Asstt. Engineer have no right to suspend him. That false case was prepared against him as Mr. Nair was annoyed from the workman. That Mr. Nair IOW or Asstt. Engineer cannot issue chargesheet. They have no authority to issue suspension order. The resignation was obtained from workman

fabricating the document bearing his thumb impression. The resignation was illegally accepted by the competent authority. Suspension order was also revoked by incompetent authority. However he was not allowed to resume duty. On such ground, workman prays that action of management of IInd party is not justified. He may be reinstated with full back wages.

4. IInd party management filed Written Statement at Page 4/1 to 4/8. All material contentions of workman about fabricating case by IOW Mr. Nair. The fabrication of documents and conspiracy by Nair with Asstt. Engineer are denied. It is submitted that the workman on enquiry by IOW Mr. Nair arrogantly replied. It is denied that Mr. Nair asked him to go back to headquarter Kirandul and attend office on 22-1-83. The workman on entering the chamber of IOW, started shouting in filthy language with Mr. Nair. Management contents that the charges were correct. Workman had abused and threatened to kill Mr. Nair after entering in his office. The workman was suspended on 22-1-83. Chargesheet was issued to him. Workman submitted resignation on 8-2-83. His resignation was accepted. The suspension order was revoked, the orders were passed by Competent Authority. The powers were delegated to Asstt. Engineer under discipline and Appeal Rules. IInd party submits that workman's contention that Mr. Nair was secretary of S.E. Railway Mens Congress has denied. According to management, Mr. Nair was working as IOW. He has taken action as per rules, not as a Secretary of Union of Railway Mens Congress. The action taken by management is proper and legal as workman was suspended. He has submitted resignation, resignation was accepted. Workman is not entitled to any of the relief prayed by him.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---|
| (i) Whether the demand of Ramulu, Truck Khalasi working under PWI, Kirandul, S.E. Railway is legal? | In Affirmative |
| (ii) Whether permission should be granted to him for resuming his duty. | Workman is entitled for reinstatement with 50% back wages |
| (iii) If so, to what relief the workman is entitled to?" | As per final order |

REASONS

6. Workman is challenging act of management is passing the order of his suspension accepting resignation, revocation of suspension and not allowing to resume duties. In his evidence, workman stated that he was working under

IOW Mr. Nair. While returning from duty on 21-1-83, around 10 AM, Mr. Nair had asked him to attend his office on next day. Mr. Nair developed enmity out of the rival Union and therefore workman was falsely suspended. The order of suspension, acceptance of resignation and revocation of suspension were issued by the Competent Authority. All other allegation of workman are denied by management of IInd party. Workman filed affidavit of evidence. He has stated in his affidavit that he was appointed as helper in 1970. In September 1970, he was regularized on the post of Truck Khalasi. He was posted in office of IOW Kirandul. On 21-1-83 morning, he was returning from duty from Bachel. That Mr. Nair was Secretary of the other Union and developed enmity with him. At his instance, he was falsely implicated. Order of suspension was issued to him. When he attended office on 22-1-83, Mr. Nair obtained his thumb mark and prepared letter of his resignation, the order of suspension was revoked on same day misusing the paper on which his thumb impression was obtained. In his cross-examination, workman says that he was scolded by Mr. Nair. That he had not abused Mr. Nair, the order of suspension was issued by incompetent authority. That he had not submitted resignation but his thumb mark was obtained. That he had not asked for immediate acceptance of his resignation.

7. Management examined Mr. Nair to substantiate his claim. Mr. Nair has deposed most of the facts covered in Written Statement filed by management. He denied that he called him to his office at Kirandul. That the workman had admitted that he was late in duty and committed mistake. It was the IInd time such incident occurred. That workman Ramulu was abusing in indecent language and threatening him. He denied allegations that the order of suspension, revocation were not issued by competent person. He further says that workman himself had submitted application for accepting his resignation. In his cross-examination all points of suggestion to the witness are denied by him. However he admits that chargesheet was not issued to workman, no Department enquiry was held.

8. The perusal of document Exhibit R-1 is submission of resignation is written in English. It bears thumb mark of workman. Application was submitted on 8-2-83. It was accepted on the same day. It also bears endorsement that the application forwarded to Asstt. Engineer. However without waiting for approval, resignation was accepted on same day. The evidence in cross-examination of management's witness shows that no entry of application is taken in inward register while forwarding to the office of Asstt. Engineer. Document R-4 is letter from office of Asstt. Engineer that the resignation was accepted on the same day. However no outward number is given on the said document. There is no evidence as to who had written application for submitting resignation by workman. Such person is not examined who had obtained thumb marks on application. No evidence is adduced by management. As

the workman is illiterate his thumb mark was obtained. Without such application, it cannot be said that the workman had submitted his resignation. There appears from office of IInd party without examining genuineness of resignation, were accepted on same day, no statutory provision was made. Therefore the so called resignation from service of workman cannot be said legal. As per evidence on record, workman has not received any notice, no chargesheet was issued to him, enquiry was not conducted against him but workman was not allowed to resume duty. It amounts to illegal retrenchment in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No. 1 in Affirmative.

9. Point No. 2 & 3 — In view of my finding on Point No.1 that the services of workman are illegally terminated in violation of Section 25-F of I.D. Act, question arises as to what relief workman is entitled. Workman is out of service since 8-2-83 for period of more than 20 years. The age of workman shown as 51 years in affidavit of evidence filed on December-94. No evidence is adduced on record by management that workman was not gainfully employed. Considering evidence on record, in my considered view, reinstatement of workman with 50% back wages would be appropriate and meet the ends of justice. Accordingly I record my finding in Point No. 2 & 3.

10. In the result, award is passed as under:—

1. The action of IInd party management in not allowing the workman Ramulu on duty amounts to retrenchment in violation of Section 25-F of I.D. Act. It is illegal.
2. IInd party management is directed to reinstate workman with 50% back wages.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

कांआ 2571.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिटी बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 49/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12011/11/88-डी-4(ए)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2002) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of City Bank, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12011/11/88-D-4(A)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT:

Dr. Manju Nigam, Presiding Officer

I.D. No. 49/2002

Ref. No. L-12011/11/88-D-4(A) dated: 12.10.1988

BETWEEN:

Mahasachiv
City Bank Staff Association,
3, Sansad Marg,
New Delhi

AND

Vice President,
City Bank (NA),
3, Sansad Marg,
New Delhi

AWARD

1. By order No. L-12011/11/88-D-4 (A) dated: 12.10.1988 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mahasachiv, City Bank Staff Association, 3, Sansad Marg, New Delhi and Vice President, City Bank (NA), 3, Sansad Marg, New Delhi for adjudication.

2. The reference under adjudication is:

"Whether the action of the management of City Bank in engaging Shri M.A. Khan and 15 Others in the prohibited category of watching and cleaning as contract labour and denying them regularization is justified? If not, to what relief are the concerned workmen entitled".

3. The case of the workmen's union, in brief, is that all the sixteen workmen under reference are working with the opposite party as contract labour which is totally in violation

of provisions of Section 10 of the Contract Labour (Regulation & Abolition) Act, 1970, which deals with the prohibition of employment of Contract Labour in certain categories of employment. It has further been submitted by the union that the workmen are engaged as watch & ward staff/Armed Guards and cleaners and sweepers and had been discharging all the duties of regular employees as they have been working in their position but they are termed as contract labour for the purpose of salary without any benefit, such as P.F., Leave etc. The union has submitted that neither the management is registered as Principal Employer nor the Contacts are duly licensed under the Contract Labour Act, therefore, the workmen are deemed to be the employees of the Bank and are entitled to wages and other benefits as per Bipartite Settlement. It is also submitted that the management is taking work of watch & ward/armed guards in the Bank premises through M/s. Vigil Services Pvt. Ltd. Similarly the work of cleaning and sweeping was done through a contractor viz. M/s. Lion Carpet and Cleaning Co. The workman's union has alleged that engagement of workman as contract labour, in violation to the provisions contained in Contract Labour Act, is unfair labour practice as per Industrial Disputes Act, 1947. Accordingly, the workmen's union has prayed that the workmen employed though Labour Contract be given all the benefits as that of the regular employee from the date of their initial appointment and the management be directed to regularize all the workmen under reference.

4. The management of the City Bank has denied the allegations of the workman's union and has submitted that at present there are three full time sweepers-cum-cleaners, who could not maintain adequate standard of efficiency and therefore, the management has to hire the services of a professional firm of cleaners viz. Lion Carpet Clearing Company who in addition to specialized work of disinfestations and disinfection of the Bank premises which the whole time sweepers-cum-cleaners could never do, did specialized cleaning of carpets, upholstery, furniture etc. It is further submitted that due to security threats from terrorist, the Bank had to avail services of professional security services though some contractor viz. Vigil Services Private Limited. The management has denied that there is any relationship of employee and employer between the workmen and the management as alleged. It has further been submitted by the management that the question of payment of wages was not within the competence of the management since the persons concerned were not its employee and they have always, looked all along to their own employers for payment of their wages. Moreover, it was also a condition with the contracting company that anything done by their employees would not constitute any relationship of employer and employee between the management of the bank and the workmen. It has also been submitted by the management that the Bank notified some vacancies which were open to all including workmen under

reference to apply for said posts. Accordingly the management has prayed that the claim of the workman's union be rejected out rightly as devoid of any merit.

5. The workman's union has filed its rejoinder wherein it has stated nothing new apart from resubmitting the averment already made.

6. The parties submitted documentary as well as oral evidence in support of their case. The workman's union has examined its General Secretary, Jag Mohan Riyal; whereas the management examined Shri Rahul Sharma, Manager (HR) in support of their case. The authorized representative of the management argued its case whereas the workman's union refrained from arguing their case. When the workman's union did not turn up for long, the case was reserved for award, keeping in view the long pendency of case since year 2002 before this Tribunal and reluctance of the workman's union to contest their case.

7. Heard authorized representative of the management and perused entire evidence on record.

8. The workman's union has come up with a case that the management had engaged workmen through contractor/agency to deprive the workmen of wages, PF and leave etc.; and this act of the management is in violation to the provisions contained in the Contract Labour Act. It was further argued that the workmen be treated employees of the Bank as the agencies supplying the labourers did not have any license for the same and also that there was no valid contract between the management and the agencies for supply of the labourers.

The workman's union had examined Shri Jag Mohan Riyal, General Secretary of the union who has stated in his examination-in-chief that eight workmen were employed as watch and ward Armed Guards through contractor viz. M/s. Vigil Services Pvt. Ltd. and the remaining eight were employed as cleaner-cum-sweepers though another contractor viz. M/s. Lion Carpet and Cleaning. It was further stated that the duties were assigned to these workmen by the officer of the Bank and were also supervised by them. However, the payments of wages were made through the Contractors. It was further stated that none of the workmen were given any notice of termination, retrenchment compensation in lieu of notice in violation to the provisions contained in Section 25 F of the I.D. Act.

9. In rebuttal the management has taken the plea that the provisions of the Contract Labour (Regulations and Abolition) Act 1970 do not apply to the establishment of the bank at New Delhi. Moreover, it has been submitted that there is no relationship of employer and employee between the management of the Bank and the workmen under dispute. In fact they are the employees of the agencies sponsoring them to carry out certain specialized work that cannot be done by the regular employees. The management has contended that the workmen not being employee of he

Bank are not entitled for seeking regularization into the Bank services. Moreover, it has take plea that the union has no locus standi to espouse the cause of workmen as they are not permanent members of the union.

The management examined Shri Rahul Sharma, Manager (HR) who stated that the bank had in its employment regular sweeper-cum-cleaners for carrying out the routine sweeping and cleaning jobs. Moreover, to carry out the specialized cleaning of the carpets, upholstery, furniture etc. and for carrying out disinfection of the bank premises the bank had to hire the services of professional firm of cleaners viz. M/s. Lion Cleaning Co. It was further stated that consequent to bomb blast the bank had to hire services of trained guards from an agency viz. Vigil Services.

12. I have gone through entire evidence available on record and have given my thoughtful consideration to the pleadings of the either parties.

13. In the instant case, the management has taken a preliminary objection that the representative workmen's union has no locus standi to contest the present case on behalf of the workman. It has pleaded that the workmen are being supplied by some agency and they are not the permanent members of the union, therefore, their cause cannot be espoused by a union which does not have workmen in their member's list. The union has opposed the submissions made by the management. It was submitted that a resolution was passed to represent the case of these contract labour and accordingly, the union is contesting the case. But the union has not filed any copy of resolution before this Tribunal; besides the affidavit of the Secretary to the union. Under the circumstances, there appears no merit in the submission of the workmen's union, even then, I do not consider appropriate to disposed of the case on this ground alone at such belated stage. Hence, I am inclined to decide the same on merits.

14. While entering into the merit of the case, in nut shell, it comes out that as many as 08 workmen were engaged by the Bank to carry out some specialized cleaning work; and other 08 workmen for watch and ward services. The workmen were hired from two different agencies viz. M/s. Lion Cleaning Co. and M/s. Vigil Services (P) Ltd. Respectively. It is alleged by the union that the management of the Bank engaged the workman in prohibited category, in violation to the Contract Labour (Abolition and Regulation) Act, 1970 and after taking services of the workman for long the management has terminated their services. It has also been pleaded that the management after disengaging the workmen has engaged some new persons in their place. Apart from pleadings and the solitary oral evidence of the Secretary of the union, the workmen has neither produced any documentary evidence like attendance register, pay slip etc. to substantiate their contention that he actually worked with the management. In 2006 (108) FLR R.M. Yellatti & Asstt. Executive

Engineer Hon'ble Apex court has observed that initial burden of proof to substantiate its pleadings through cogent evidence, lies upon the workman.

The documents available on record i.e. identity card and attendance sheet shows that they were employees of the agency viz. M/s Vigil Services (P) Ltd. As the identity cards were issued by the M/s Vigil Services (P) Ltd. And the attendance sheets also pertain to the same agency. The union has not filed any documents nor has produced any of the workmen to substantiate its averments nor has tried to summon relevant documents such as vouchers making payments and salary slip or attendance register if they were employee of the Bank.

15. The argument of the workmen's union that the workmen were employees of the Bank is based on the fact that the Bank did not obtain any registration from the concerned Department nor the contractors had any license for the employing the employees. Therefore, they may be deemed to be the employees of the Bank and may be considered for regularization in the services. Though there is there is an admission from the Bank about non-availability of registration etc.; but since the workmen's union has failed to discharge its burden through reliable evidence that they are the employees of the Bank by filing appointment letter, payment slips, which they were required to prove, therefore, they are not supposed to take the advantage of the omissions of the opposite party. The law requires that it is the employee who has first to establish its case through reliable evidence. Here it is pertinent to mention that the women's union has neither produced any documents relating to their services in the Bank nor the same were summoned from Bank if they were not in their possession. None of the workmen has entered the witness box to substantiate this fact that they were the employees of the Bank; all the more there is an admission on behalf of the workmen's union that they were contract labourers. The documents filed by the union do not establish that they were employees of the bank rather it make contrary indication that they were employees of the supplier agency. Besides the union has also not pleaded that the workmen were engaged/appointed following due procedure of law. Hon'ble Apex Court in *Secretary, State of Karnataka and others vs. Uma Devi and others* 2006 (109) FLR 826 has observed that "**all ad-hoc, temporary or casual employees engaged without following regular procedure should not be made permanent**"; and it further observed that the "**State could not invoke its power under Article 162 to regularize appointments made in contravention of mandatory provisions.**"

20. Even for the argument sake, if it is considered that the workman had worked with the management of the City Bank and due to non-existence of any valid contract between the management and contractor supplying the labourers, they may be deemed as the employee of the

Bank and considering their long services they may be reinstated. But the workmen's union does not deserve advantage of the others' wrong. It should have established its case first *i.e.* they are the employees of the Bank through reliable evidence of which the union failed to prove. Further the reinstatement can be considered only if it is established that they are the employees of the Bank. Hon'ble Apex Court in *Jagbir Singh vs. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327; (2010) 1 SCC (L&S) 545; *Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and others* (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

"However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wages has not been found to be proper by this Court and instead compensation has been awarded."

21. In the evidence it has been stated that the management has terminated the services of the workmen without complying with the provisions of Section 25 F of the Act but it has not been pleaded by the workmen's union. If not pleaded the evidence led on the point is meaningless. However, even for the argument's sake, if the point is considered then again it is the burden of the workmen's union to prove that they have worked for 240 days in preceding one year from the date of termination as per provision of the Act and as per law laid down in 2005 (107) FLR 1145 (SC) *Surenderanagar Panchayat and another Vs. Jethabhai Pitamberbhai* Hon'ble Apex Court came to the conclusion that where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he is not entitled to the protection, in compliance of section 25-F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked

with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

Therefore, in view of the above referred case law, in order to take any relief for non-compliance of mandatory provisions contained in section 25F of the Act, it is necessary for the claimant to lead evidence to the effect that he was actually in employment of the opposite party for 240 days in the year preceding his termination and he was actually paid for it. In the instant case neither there is any averment in this regard nor there is any iota of evidence to show that the workmen worked for 240 days with the management of the City Bank in twelve calendar months preceding the date of termination. It is pertinent to mention here that the union has failed to substantiate this fact that the workmen worked for 240 days in a year preceding the termination; and also has failed even to mention the date of termination in respect of the workmen without which it is impossible to count the number of working days in respect of each workman under reference.

22. Thus, in view of the facts and circumstances of the case and the case laws laid down by the Hon'ble Apex Court, I am of considered opinion that the workmen's claim for regularization in the services of the City Bank does not sustain in the eye of law. Accordingly, the reference is adjudicated against the workmen's union and the workmen concerned are not entitled to any relief.

23. Award as above.

Lucknow

10th September, 2013.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2572.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजक और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या 2/6/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं० एल-41012/39/98-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2572.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 2/6/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No.2, Mumbai as shown in the Annexure, in the industrial dispute between

the management of Central Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41012/39/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/6 of 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF CENTRAL RAILWAY

The General Manager
Central Railway
Mumbai CST
Mumbai-400 001.

AND

Their Workmen

Mr. Madho Singh Samant
C/o. Madhya Railway Karmachari Sangh
33, Moti Bhavan,
Dr. D'Silva Road,
Dadar,
Mumbai-400 028.

APPEARANCES:

FOR THE EMPLOYER : Mr Abhay Kulkarni, Advocate

FOR THE WORKMAN : Mr. M.B. Anchan, Advocate

Mumbai, dated the 26th August, 2013

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-41012/39/98-IR (B-I), dated 31.12.1998 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the General Manager, Central Railway in terminating the services of Shri Madho Singh Samant, Ex-Bungalow Peon to SR Dy. G.M. of Central Railway *w.e.f.* 31/03/97 is justified? If not to what relief the Workman entitled to?"

2. After receipt of the reference notices were issued to the parties. In response to the notice second party workman filed his statement of claim at Ex-7. According to him as per the recommendation of Dr. (Mrs. Saroj S. Kunwar) Chief Medical Superintendent, Central Railway Hospital, Kalyan

he was appointed as a Bungalow Peon in the pay scale of Rs. 750-940. He was appointed with prior approval of General Manager, Central Railway Mumbai-CST. He was transferred and posted as Bungalow Peon to Sr. Dy. G.M., Mr. B.S. Kushwaha, Central Railway, Mumbai CST. Before that he was medically examined and found fit for appointment. From the date of his appointment as Bungalow Peon from 18/01/1996, he had worked continuously till the termination of his services. According to him by his letter dt. 12/3/1997 he had applied for leave for 30 days from 12/3/1997 to 12/4/1997. He submitted his leave application to Mr. Kushwaha, Sr. Dy. G.M. and after obtaining his approval, he proceeded to his native place. After availing the leave he returned back to resume duty on 13/04/1997 when he was not allowed to resume duty and Sr. Dy. Manager told him that his services are no more required. Assistant Personnel Officer told him that his services were already terminated *vide* letter dt. 31/03/1997. The workman did not receive any such letter as he had been to his native place. He received one envelope containing a cheque of Rs. 3,390/- and there was no letter of termination. Therefore he approached Sr. D.G.M.S (Personnel Officer) to know the reason for not allowing him to resume duty. They gave him xerox copy of termination letter and workman came to know about the same.

3. According to the workman he had worked more than 240 days continuously in a calendar year. His services were terminated illegally. Therefore he has raised industrial dispute. As conciliation failed, on the report of ALC (C), the reference was sent to this Tribunal. The workman prays that action of management, Central Railway, Mumbai terminating his services be declared illegal, invalid and void ab-initio and they be directed to reinstate him in service with full back-wages and continuity of service.

4. The first party management resisted the statement of claim *vide* their Written statement at Ex-10. According to them Railway is not an "industry". It is performing Governmental functions. Therefore Reference is not tenable. The second party workman was appointed as temporary Sub-Bungalow Peon. He was not appointed by following the recruitment procedure. His case falls under exception of Section 2 (oo) (bb) as he was governed by service conditions of substitute Bungalow Peon in accordance with the letter dt. 01/10/1972 and 11/06/1996. He remained absent from duty from 12/03/1997. His absence was unauthorised and without taking prior permission. His contention is false that he had applied for leave from 12/03/1997 to 12/04/1997. As the workman remained absent the first party terminated his services alongwith letter of termination, one month's notice pay and retrenchment compensation total cheque of Rs. 3319/- was sent to the workman. The workman was temporary and his service was likely to be terminated without assigning any reason. Therefore the workman was not entitled to any protection.

In the circumstances first party contended that the workman is not entitled to be reinstated in the service and prays that the reference be dismissed with cost.

5. Following are the issues re-casted after the reference was remanded by Hon'ble High Court. I record my findings thereon for the reasons to follow:

Sr. issues No.	Findings
1. Whether the termination of services of the workman by the first party is legal and justified?	No
2. If not, whether the workman is entitled to be reinstated with full back wages?	No
3. What relief the workman is entitled to?	As per order below
4. What order?	As per order below

REASONS

Issue No. 1:—

6. In this reference my Ld. Predecessor had framed the issues, recorded the evidence of both the parties and had passed the award and directed the first party to reinstate the second party workman with full back wages and consequential benefits. The said award was challenged in writ petition no. 2378/2004 before Single Judge of Hon'ble Bombay High Court. Wherein the Hon'ble Court set aside the award and by its order dated 11/10/2004 and the reference came to be rejected. The said order of Hon'ble Single Bench was challenged in Writ Appeal no. 787/2005 before Division Bench of Hon'ble Bombay High Court. The Hon'ble Division Bench set aside the award passed by CGIT as well as set aside the order of Single Bench and remanded the reference Back to this Tribunal for de-novo trial and disposal in accordance with law. In this respect the Id. adv. for this first party pointed out that neither the second party was appointed after following the procedure prescribed for appointment of a Bungalow Peon nor he was given any permanent appointment. Therefore according to the Id. adv. for the first party as per the letters of 1972 and 1996 in respect of appointment, the sub-Bungalow Peon remains as a temporary employee for three years until he is taken into the regular cadre of Peon. Till then his services can be terminated without assigning any reason.

7. In respect of the appointment the fact is not disputed that neither there was any advertisement nor the workman had appeared for any test or interview. Even according to the workman he was appointed as per the recommendation

of Chief Medical Superintendent, Central Railway Hospital, Kalyan. He was appointed as per the letters of 1972 & 1996 referred in the written statement of the first party. Therefore the workman remained as a temporary employee of the first party for the period of three years and after three years he would have been absorbed in the regular service of the first party. In the circumstances the Ld. adv. for the first party submitted that the position of the employee during the period of three years is like probationer. The Ld. adv. further submitted that workman remained absent for about a month. Therefore as his service was found unsatisfactory, he was terminated from the services. This termination does not attach any stigma. In this respect it was submitted on behalf of the second party that he was not unauthorisedly absent from duty. On the other hand he had submitted leave application and has also obtained permission from the concerned officer at whose bungalow he was working. However workman has not produced any document to show that he had submitted any application for leave. On the other hand the first party has submitted on record at Ex-42 the letter of apology dated 29/04/1997 written by the workman wherein he has apologised for his unauthorised absences.

8. From the above facts and circumstances on record it is clear that the workman was not appointed after following the procedure prescribed for recruiting an employee of Railway. On the other hand he was appointed as per the recommendations of Medical Officer. From the record it also clear that the workman had worked more than 240 days continuously in a calendar year. Therefore the workman claims that his services cannot be terminated without notice and without giving him hearing. In this respect I would like to point out that as per the law laid down by the Apex Court in the case of Secretary, State of Karnataka & Ors. V/s. Umadevi & ors 2006 II CLR 261, a person recruited without following the procedure prescribed for the recruitment though continued in service for more than 240 days, he cannot claim regularisation in the service. In this respect I would also like to refer another Apex Court ruling in Delhi Transport Corporation V/s. Moolchand (2009) 1 SCC (L & S) 106 wherein the Hon'ble Court held that;

"Continuance on ad-hoc basis for a long period did not confer any right for regularization when initial appointment itself was not made by following due process of selection."

Though such employee cannot claim regularisation that, does not mean that he can be terminated at any time. On the other hand I would also like to point out that even a temporary worker if worked for 240 days or more cannot be removed from service arbitrarily as he is entitled to the protection under Section 25 F of the Industrial Disputes Act.

9. In the case at hand though the workman is not entitled for regularisation in the service and his service can be

terminated by following the procedure prescribed under Section 25 F of I.D. Act. Now I would like to ascertain whether the procedure prescribed under Section 25 F of I.D. Act was followed while terminating or retrenching the workman by the first party. In this respect it was pointed out on behalf of first party that alongwith termination letter cheque of Rs. 3,319/- was sent to the workman. However details thereof are not given. Even the figure of his last pay is not given by the first party. They have also not mentioned either in the written statement or in affidavit of any of the witnesses what was the last pay of the workman and whether the amount sent by way of retrenchment compensation was due compliance of Section 25 F of I.D. Act? No doubt the termination/retrenchment in the case at hand was without show cause notice to the workman. Therefore termination or retrenchment can be called illegal if there is no strict compliance of Section 25 F of the I.D. Act. Merely sending cheque of an amount of Rs. 3319 does not suffice the purpose as there is no reference as to what was the last pay of the workman. There is also no evidence to show that the amount of retrenchment compensation was sufficient as contemplated under Sec. 25 F of the I.D. Act. In this respect suggestion was given to the workman in his cross examination at Ex-32 and he has replied that he cannot say whether cheque of retrenchment compensation was not less than his pay. From this reply conclusion cannot be arrived at that, the amount sent by cheque was sufficient and due compliance of Section 25 F of I.D. Act. Therefore I hold that the order of termination/retrenchment passed by the management is no doubt illegal.

10. The order of termination is found to be illegal. In this back drop the Ld. adv. for the workman has submitted that workman should be reinstated with full back wages. In this respect I would like to point out that the workman was recruited without following the recruitment procedure prescribed therefor. Therefore he cannot claim regularisation in the service and at any time the management can terminate his services by following the procedure laid down under Sec. 25 F of the I.D. Act. In this back drop there is no point in directing the first party to reinstate the workman with back wages etc. On the other hand to avoid the eventuality and multiplicity of litigations, I think it proper to award compensation to the workman for his illegal termination. While fixing the amount I would like to consider the fact that the litigation is pending since 1999. The matter was taken to Hon'ble High Court in Writ petition. The order and judgment of Hon'ble Single Judge was challenged in Writ Appeal. In writ Appeal the Hon'ble Court remanded the matter back to the tribunal. During the period of more than last fourteen years the workman must have sustained huge monetary loss. At the same time I also consider the fact that his appointment was not as per the recruitment norms.

In the circumstances to meet the end of justice, I think it proper to award compensation to the tune of Rs. 1,00,000. Thus I decide this Issue No. 1 in the negative that, termination of services of the workman is not legal and proper, so also I hold that the workman is not entitled for reinstatement. Instead of reinstatement I think it proper to award compensation for illegal termination. Accordingly this issue No. 2 is also decided in the negative. In respect of issue No. 3 I hold that the workman is entitled to the compensation of Rs. 1,00,000 for his illegal termination. Thus I proceed to pass the following order.

ORDER

- (1) The reference is party allowed with no order as to cost.
- (2) The order of termination is declared to be illegal.
- (3) The workman is not entitled for reinstatement.
- (4) Instead of reinstatement, the first party is directed to pay compensation to the workman to the tune of Rs. 1,00,000.

Date: 26.08.2013

K.B. KATAKE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2573.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केंद्रीय सरकार दक्षिण पूर्वी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 237/89) को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-41011/5/89-डी-2 (बी)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2573.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 237/89) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of South Eastern Railway, and their workmen, received by the Central Government on 11/11/2013.

[No.L-41011/5/89-D-2(B)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/237/89****PRESIDING OFFICER : SHRI R.B. PATLE**

The Secretary,
South Eastern Railway Men's Union,
Shahdol Unit,
Qt. No. 245/2, Railway Colony,
Distt. Shahdol

Workman/Union

Versus

Sr. Divisional Mechanical Engineer,
S.E. Railway,
Bilaspur

Management

AWARD

Passed on this 24th day of September 2013

1. As per letter dated 30-10-89 by the Government of India, Ministry of Labour, New Delhi the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-41011/5/89-D-2(B). The dispute under reference relates to :

"Whether the action of the management of Bilaspur Division of South Eastern Railway, Bilaspur in terminating the services of their workmen S/Shri Ravindra Kumar Shrivastava, Surajbali Singh, Mumtaj Khan, Mahmod Khan, Suresh Kumar Yadav, Mohd. Samim and Ram Kumar, Substitute Shed Khallasi of Locoshed Shahdol is legal and justified? If not, to what relief the workmen are entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 8/1 to 8/5. The case of Ist party Union is that the workmen Shri Ravindra Kumar Shrivastava, Surajbali Singh, Mumtaj Khan, Mahmod Khan, Suresh Kumar Yadav, Mohd. Samim and Ram Kumar are sons of Railway employees. They were appointed under orders of Sr. Divisional Mechanical Engineer, S.E. Rly, Bilaspur as substitute Shed Khalasis in the Loco shed, Shahdol from 1-1-1984. That those employees were subjected to Medical Test before they joined their duties. Their service was with the entire satisfaction of their superiors. After working of about 1 year 3 months, these workmen and some other workmen were not allowed to perform duty from 4-4-85. Orally they were told that their services were terminated, nothing was give in writing to them, notice of termination was not given, pay in lieu of notice was not paid to them, retrenchment compensation was not paid.

3. It is submitted that termination of their services is in violation of provisions of I.D. Act. the provision of Indian Railway Establishment Manual were not complied. Hat the

services of these workmen were to be terminated on any other ground/misconduct, the management should have issued chargesheet. Those workmen did not received chargesheet from management, they were not given reasonable opportunity by the management for their defence. That some of the workmen appointed under the same office order were allowed to continue to work namely Ramkumar was taken on duty after long time. Thus it is reiterated that the service of those 7 workmen are terminated in violation of Section 25-F of I.D. Act. The termination is illegal. Union prays for reinstatement for all 7 workmen with consequential benefits.

4. IInd party filed Written Statement at page 9/1 to 9/9. It is submitted that the Ministry of Railway *vide* letter dated 7-6-84 advised all Railway Organisation to stop engagement of fresh employees. Under said order strength of casual labour as existing on 1-1-84 was to be closed. Earlier to these orders there were clear instructions that no fresh candidate should be engaged without personal approval of General Manager. That 10 substitutes were engaged in Loco/SDL to meet casualties exceeding leave reserve provided from various dates from 12-1-84, it was presumed that they had rendered service in Railway earlier. Complaints were received in early 1985. Those persons engaged in Loco/SDL on the basis of forged and false certificates of admission.

5. In fact-finding enquiry, Committee of two officers *i.e.* Asstt. Personnel Officer and Asstt. Mechanical Engineer, Bilaspur was ordered. The records of engagement and interview of 10 substitutes were asked to be produced. The Certificates produced by the substitutes were verified by the Committee from salary bills, LP sheets, through which the payment of salary was made. On the basis of report of said committee, 10 substitutes were terminated from 4-4-85. Later 3 substitutes produced genuine certificates of earlier service which they could not produce at the time of enquiry, they were reengaged. It is submitted that the termination of services of those substitutes is not a retrenchment under I.D. Act. It was disciplinary measure taken after the enquiry giving opportunity to the concerned persons. The question which was referred to the Vigilance Commission is to locate persons who are involved in forgery of certificates. That production of false certificate in the Division is not solitary case of the persons in Loco/SDL. Such cases are being occurred at various places. The cases involved making of forged signatures of the Unit Supervisors, getting rubber stamps of railways units prepared in the market and using them for making false certificates and false papers. The services were terminated as the earlier service certificate were found not genuine. On such grounds, IInd party submits that workmen are not entitled to relief prayed by them. If their services are not retrenched rather their services are terminated as they had submitted bogus certificate of past service.

6. Union filed rejoinder at Page 11/1 to 11/2 reiterating its contention that termination of their service is in violation of I.D. Act without giving opportunity to the workmen for their defence.

7. Considering pleadings on records, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the action of the management of Bilaspur Division of South Eastern Railway, Bilaspur in terminating the services of their workmen S/Shri Ravindra Kumar Shrivastava, Surajbali Singh, Mumtaj Khan, Mahmod Khan, Suresh Kumar yadav, Mohd. Samim and Ram Kumar, Substitute Shed Khallasi of Locoshed Shahdol is legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workmen are rejected. |

REASONS

8. Union is challenging termination of services of those 7 employees names appearing in the order of reference for violation of Section 25-F of I.D. Act. That no chargesheet was issued to him, no enquiry was conducted, notice for termination of service was not issued, retrenchment compensation was not paid and pay in lieu of notice was not paid to the employees.

9. Management denied those contentions. It is case of management that those 7 employees had secured job producing bogus certificate of past service. Fact Finding committee had verified genuineness of the certificate. The Union did not adduce any evidence to substantiate its claim. As per order sheet dated 15-9-95, the Union declined to adduce evidence and the management examined the witness to substantiate its defence. Documents Exhibit M-2 proved from evidence of management's witness finds clear reference of verifying past service certificate of all those employees in the record of their service being citizens. The certificates of past service produced by those employees were found not genuine.

10. Evidence of management's witness Shri M.S. Mondle has stated in his evidence that enquiry was conducted by him along with one Mr. Agrawal. He has given details about verifying correctness of the certificate of past service produced by Shri Ravindra Kumar Shrivastava, Surajbali Singh and Mahmod Khan. From muster register,

they are examined, no entries of those employees were appearing in it. In his Cross-examination, management's witness says chargesheet was not issued to those employees. That he had signed on report Exhibit M-2. In said report, it is written that the muster roll do not show the names of those employees. The evidence of management's witness Rajesh Agrawal is on the point that he had signed report Exhibit M-2. The enquiry was conducted by him along with Shri Mandal. The witness was not cross-examined on behalf of the Union. Witness No. 3 R.K. Ingde in his evidence says he had enquiry muster roll of Shri Suraj Bali and Suresh Kumar Yadav, their names were not appearing in the muster roll at Bhilai. Their names were not appearing in the Bill Book. In his cross-examination, he says that he had received order in writing for enquiry. He had not made enquiry from the workman concerned. MW-4 Shri Nemichand in his evidence says that he had made enquiry in respect of Mohd. Khan from PWI Bhatapara. He examined salary bills register from 24-1-83 to 23-1-84. Name of Shri Mohd. Khan was not found by him. Counsel for Union declined to cross-examine the witness. Evidence of management's witness Rajbir Singh is on the point that he had examined record in office of PWI Bonsera. Name of Mohd. Muntaz Khan; R.K. Shrivastava were not found in original record. In his cross-examination, he says that he was working at Umsara since July 1995, he was not working at Umsara during 81 to 83. The evidence of management's witness P.K. Biswas is on the point that he was working as Head Clerk at PWI Office Baraduar. The names of Suresh Kumar and Surajbali Singh were not appearing in record of PWI Office during 1976 to 77. His evidence is not shattered in his cross-examination. Management's witness R.K. Ingle in his evidence of affidavit states that in Bhilai complex, there was not Inspector of Works in Railway Electrification office. He investigated engagement of Mohd. Shamim and there was no record existing nor in the office of IOW (RE) Bhilai. In his cross-examination, the witness says only record about said employee was not with the management.

11. Affidavit of evidence of management witness R. Shankaran is filed exhaustively about the verification of the past service record of all 10 employees, after verification past service record of all 7 workmen were found bogus. 3 other employees had produced documents of past service. Subsequently his evidence remained unchallenged.

12. The report Exhibit W-2 corroborates evidence of management's witnesses. I did not find reason to discuss their evidence, no witness is examined by the Union to substantiate their contentions. When all those 7 employees were employed as substitutes, they submitted bogus certificate of past service, there was prohibition in engaging new faces. That new faces should be engaged only with prior approval of the General Manager. The evidence of record is cogent that 6-7 employees secured employment producing bogus certificate of past service. On said grounds, their services were terminated. The fact Finding

Committee was appointed. He verified the record and submitted report Exhibit W-3. For above reasons, I record my finding in Point No. 1 in Negative.

13. In the result, award is passed as under:—

- (1) Action of the management of Bilaspur Division of South Eastern Railway, Bilaspur in terminating the services of their workmen S/Shri Ravindra Kumar Shrivastava, Surajbali Singh, Mumtaj Khan, Mahmod Khan, Suresh Kumar Yadav, Mohd. Samim and Ram Kumar, Substitute Shed Khallasi of Locoshed Shahdol is proper and legal.

- (2) Relief prayed by workmen are rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

कांआ 2574.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार स्टेट बैंक ऑफ इंदौर प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या 9/90 को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12012/240/89-आईआर (बी-III)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 9/90 of the Cent.Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore, and their workmen, received by the Central Government on 11/11/2013

[No. L-12012/240/89-IR (B-III)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/9/90

PRESIDING OFFICER: SHRI R. B. PATLE,

S/o Shri Anand Gupta,

S/o Shri Jagdish Chandra Gupta

R/o Mayaram Sadan,

Jayeshwar Road,

Ambah,

Distt. Morena (MP)

Workman

Versus

Regional Manager,
State Bank of Indore,
Now State Bank of India,
Regional office,
Modi House, Gandhi Road,
Gwalior.

Management

AWARD

Passed on this 26th day of June 2013

1. As per letter dated 5-1-90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/240/889-IR (B-3). The dispute under reference relates to:

"Whether the action of the management of the R.M. State Bank of Indore, now State Bank of India. Gwalior in not providing employment to Shri Anand Gupta, clerk-cum-cashier after 27-3-1982 and whether his said termination is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted his statement of claim at Page 5/1 to 5/3. The case of Ist party workman is that he was appointed as clerk cum cashier at Ambah branch of State Bank of Indore (now merged as State Bank of India), he was appointed against clear vacancy as the work in the Bank was increased. He was allowed to work till 27-3-82. He had worked for total period of 75 days in the Bank. After termination of his service, Bank employed Miss Uma Gupta on 5-4-82 and she continued till 18-6-82. The practice of hire and fire continued till the middle of June 1986 by the Bank. After judgment by Industrial Tribunal, such practice was disapproved, Ist party workman submits that he had approached several times to the authority of Bank to take him in service but his request was not considered.

3. The Bank is subsidiary of State bank of India nationalized Bank and thus it is an authority Article 12 of constitution, it cannot act in arbitrary manner in violation of Articles 14 & 16 of the Constitution of India. Workman submits that termination of service is in violation of Section 25-G, H of I.D. Act He prays for reinstatement with back wages.

4. IInd party management filed Written Statement at page 8/1 to 8/5. It is contented by IInd party that workman had not worked for 240 days preceding 12 months from alleged retrenchment. Therefore the reference is not tenable. Workman is not entitled to benefit of Section 25-G, H of I.D. Act. As per Clause 69 of Desai Award, casual employees are excluded from operation of said award. As per Clause 23.19 of Desai Award, Bank can employ casual employee for 3 months in an year. The award does not provide for confirmation of such employees. That the workman was casually engaged for specific period. Discontinuation does

not amount to retrenchment under Section 2(oo) of I.D. Act. Rather it is under exemption under clause (bb) of Section 2 (oo) of the Act. The Bank is a public sector under administrative control of Central Government. The recruitment policy for the Bank needs written exam for all eligible candidates. The written examination is conducted by Regional Recruitment Board. The IInd party submits that workman was engaged for 30 days from 12-1-82 to 10-2-82, thereafter for another 30 days from 11-2-82 to 12-3-82 then from 13-3-82 to 27-3-82 for 15 days. The workman has not completed 240 days continuous service. He is not entitled to benefit under Section 25-G, H of I.D. Act. The discontinuation of workman does not amount to retrenchment. On such grounds, IInd party prays for rejection of the claim.

5. Ist party filed rejoinder at Page 11/1 to 11/2 reiterating its contention that discontinuation of his service in violation of Section 25-G, H of I.D. Act.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------------------------|
| (i) Whether the action of the management of the R.M. State Bank of Indore, now State Bank of India, Gwalior in not providing employment to Shri Anand Gupta, clerk cum cashier after 27.3.1982 and whether his said termination is legal? | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

7. Though the workman has contented that his discontinuation from service is in violation of Section 25-G, H of I.D. Act, the workman has failed to adduce evidence. Workman was proceeded exparte on 14-11-2006. Management of IInd party filed affidavit of evidence of Shri Ambarishchandra Dixit. The witness of management has stated that workman had not completed 240 days continuous service. He is not entitled to protection of Section 25-G, H of I.D. Act. Workman was engaged as casual employee. The dispute is filed after six years is belated. As per settlement dated 19-10-66, the Bank has power to engage casual employees for three months, the services of employees are automatically terminated. It does not amount to retrenchment. The management's witness remained unchallenged. Workman fails to cross-examine the management's witness. I do not find reason to disbelieve evidence of said witness. The workman has failed to establish that the action of the management in not providing him employment is illegal.

8. Counsel for management Shri Chaturvedi relies in ratio held

"In case of S.M. Nilajkar *Versus* Telecom district Manager reported in 2003(4) Supreme Court Cases 27. Their Lordship of the Apex Court dealing with scope of Section 2(oo)(bb) of I.D. Act held burden to prove the ingredients of sub clause (bb) on employer, employment must be shown to be under a contract which stipulates that it, would come to an end with the expiry of the project or scheme and the workers must be shown to have been made aware of such stipulation at the commencement of their employment.

No such evidence is adduced by the employee therefore ratio in above cited case cannot be applied to present case.

Next reliance is placed on ratio held in

"Case of General manager, Haryana Roadways *versus* Rudhan Singh reported in 2005(5) supreme Court Cases 591. Their Lordship dealing with the point of back wages, grant and quantum held there is no rule of thumb that in every case where Industrial. Tribunal gives finding that termination of service was in violation of Section 25-F of I.D. Act, entire back wages should be awarded order for payment of back wages should not be passed in a mechanical manner but a host of factors have to be considered. Said factors enumerated and discussed method and nature of appointment, qualifications of workman, length of service and availability of alternative work are the main heads under which these considerations would fall."

In the present case, violation of Section 25-F of I.D. Act is not proved. Therefore the workman cannot be allowed reinstatement or back wages. Therefore ratio cannot be applied beneficially.

In Case of Batala Coop. Sugar Mills Ltd. *Versus* Sowaran Singh reported in 2005(8) supreme Court Cases 481, their Lordship dealing with scope of Section 2(oo) (bb) and Section 25-F, H of I.D. Act held that workman engaged on casual basis on daily wages for specific period. Termination of services of if retrenchment held such workman cannot be said to have been retrenched in view of Section 2(oo)(bb). Hence direction to reinstate workman with back wages.

In the present case, there is no evidence that workman was engaged for specific period for specific work therefore the ratio held in the case cannot be applied to the case at hand.

9. However the workman has not adduced evidence to substantiate his claim as discussed above, any kind of illegality in action of management is not proved. Therefore I record my finding in Point No. 1 in Affirmative.

10. In the result, award is passed as under:—

1. The action of the management of the R.M. State Bank of Indore, now State Bank of India, Gwalior in not providing employment of Shri Anand Gupta, clerk cum cashier after 27-3-1982 and whether his said termination is legal.
2. Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का.आ. 2575.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केंद्रीय सरकार स्टेट बैंक ऑफ इंडिया प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या 33/2000 को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-12012/359/99-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2575.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 33/2000 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 11/11/2013.

[No. L-12012/359/99-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/33/2000

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Santosh Kumar Mishra,
S/o Shri J.P. Mishra,
C/o Vinod Kumar Mishra,
6-LIG, Vishram Baba Housing Board Colony,
Jabalpur Road, Katni Workman

Versus

Regional Manager,
State Bank of India,
Zonal Office, Civic Centre,
Marhatal,
Jabalpur (MP) Management

AWARD

Passed on this 3rd day of October 2013

1. As per letter dated 20-1-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/359/99/IR(B-I). The dispute under reference relates to:

"whether the action of the management of State Bank of India, Region-I, Jabalpur (MP) in terminating the services of Shri Santosh Kumar Mishra, S/o Shri J.P. Mishra serving previously at the Market Branch, Katni *w.e.f.* 8-3-99 after serving continuously from 1994 is legal and justified. If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at page 2/1 to 2/4. Case of workman is that he was initially appointed as Messenger from 1-4-93, he was continuously working till 8-3-99. That he had worked for 204 days in 1993, 287 days in 1994, 267 days in 1995, 268 days in 1996, 260 days in 1997 & 258 days in 1998—the actual working days. If holidays and other rest is included the total number of days would be more. That he is covered under Section 25-B of I.D. Act. That the IInd party Bank is established under SBI at 1955. The work performed by him is of permanent nature. The post were available. His services were arbitrarily terminated. He has challenged termination order in Writ Petition 622/88. At the time of hearing of Writ petition, observations were made that remedy under I.D. Act should be resorted. The petition was disposed.

3. That despite of continuously working for many years, his services were not regularized. His service is terminated in violation of Section 25-F, G & H of I.D. Act. On such grounds, Ist party workman prays for his reinstatement with back wages.

4. IInd party filed Written Statment at Page 6/1 to 6/3. IInd party denies, that the workman was posted as Messenger. According to IInd Paty, Ist party workman was working as canteen boy in a canteen run by Local Implementation Committee of the staff of the State Bank of India, Katni Market Branch from March 93 to February 99. He was paid from Account to Staff Welfare Fund. There is no employer-employee relationship between the parties. Ist party workman was never in employment of bank. The Bank is not under obligation to reinstate him or continue him in service. Workman never worked for more than 240 days in a calendar year. It is denied that workman is covered under Section 25B of I.D. Act. All other adverse contentions of workman are denied by IInd party. IInd party prays for rejection of claim of Ist party workman.

5. Ist party workman filed rejoinder at Page 7/1 to 7/2. Workman has reiterated his contention in Statement of claim

that he was continuously working with the IInd party Bank from March, 93 to February, 99. He had completed 240 days continuous service during each of the year. That his services were terminated in violation of provisions of I.D. Act. He has reproduced details of his working days and prays for his reinstatement.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the action of the management of State Bank of India, Region-I, Jabalpur (MP) in terminating the services of Shri Santosh Kumar Mishra, S/o Shri J.P. Mishra serving previously at the Market Branch, Katni w.e.f. 8-3-99 after serving continuously from 1994 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Workman is challenging legality of his termination from 8-3-99. It is case of Ist party workman that he was initially engaged as messenger from March, 1993. He was continuously working for more than 240 days during each of the year. His services are terminated without issuing notice or paying retrenchment compensation violating Section 25-F of I.D. Act. IInd party denied all those contentions. It is contended that Ist party workman has completed 240 days continuous service. Workman was working as canteen boy. There is no employer employee relationship between parties.

8. Ist party workman filed affidavit of his evidence covering most of his contentions that he was initially appointed. As Messenger from 1-4-93. He was continuously working for more than 240 days all the years. That his name is accorded as messenger in Local Dak Book from 6-7-93 to 11-07-97. His services are terminated without paying retrenchment compensation, notice was not issued. The chargesheet was not issued no enquiry was conducted. In his cross-examination workman says he was not given letter of appointment. He was orally engaged. His name was not sponsored through Employment Exchange. The post was not advertised. He denies that he was engaged as canteen boy. That Writ Petition No. 622/98 was filed by him, copy is produced at exhibit M-1. That his discontinuation on 8.3.99, he was regularly working in the Bank. After termination of his service, he is unemployed.

9. The management filed affidavit of witness Shri Prakash Chandra converging contentions of the IInd party that the workman was engaged as canteen boy during the period from March, 1993 to February, 1999 by the Local Implementation Committee. He was not appointed by Bank as messenger. There is no relationship of master and servant or employer employee. The Ist party workman was never appointed by the Bank as such he did not worked for more than 240 days in any of the calender year. In his cross-examination, management's witness says that the workman was working at Katni Market Branch of the Bank. It is denied that workman was working as messenger. The witness reiterates that he was working as canteen boy. The Local Implementation Committee is not registered under any Act. Said Committee works on welfare of the employees. The work of Bank is extracted from its employees. During 93 to 99, he was not working at Katni Branch. That he had given evidence as per available record. However record is not produced. He again says that no attendance is maintained of canteen boy. That he had made enquiry from the old employees and came to know that the workman was working as canteen boy. Any of those employees are not examined as witness of the management, no documents are produced by IInd party to show that the Ist party workman was working as canteen boy. Any office bearer of the Implementation Committee of the Bank is not examined as witness. It is clear that evidence of management witness is heresay. The evidence of workman that he was working as messenger in the Bank is supported by Document Exhibit W-1. The Local Dak Book shows name of workman as messenger from 6.7.93 till 11.6.97. The entries from 1993 to 1997 is for very long period. The name of workman shown as messenger. The management has not explained how those entries were recorded. The evidence is cross-examination of management's witness shows that the entry of canteen boy is not taken in the Local Dak Book. Therefore the evidence of workman corroborated from the entries in document Exhibit W-1 needs to be accepted instead of the here-say evidence of the management's witness. The evidence discussed above therefore clearly establish that the workman was working as messenger in the Bank and he had completed more than 240 days continuous service during each of the year.

10. Consel for 1st party workman Shri Aditya Ahiwasi relied on ratio held in—

Case of Shrimati Sunita Gupta *versus* Nagar Palika Parishad Sabalgarh and another reported in 2010(3) M.P.H.T. 243, Krishna Bhagya Jala Nigam Ltd. *versus* Mohammed Rafi reported in 2009(11) SCC-522 and Case of Sanjay Kumar *versus* Chief Executive Officer, Janpad Panchayat, Ratlam reported in 2010(3)-MPLJ 457. The ratio held in those cases about burden lies on workman about completion of 240 days service.

In present case, the evidence adduced by workman and the document Exhibit W-1 proves as the workman was working as Messenger for more than 240 days since March 1993 till termination of his service. As the burden is discharged by workman, detailed discussion of those cases is not required.

Reliance is also placed in ratio held in—

"Case of Devinder Singh versus Municipal Council, Sanaur reported in AIR-2011 Supreme Court Cases 2532. The Lordship of the Apex Court dealing with Section 2(s) of I.D. Act held the definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.

12. From evidence of workman, it is clear that his services are terminated without paying retrenchment compensation, without issuing notice as such termination of his services is in violation of Section 25-F of I.D. Act. Therefore I record my finding in Point No. 1 in Negative.

13. Point No. 2—In view of my finding in Point No. 1, termination of service of workman is in violation of Section 25-F. The question arises to what relief the workman is entitled. Workman was working as Messenger from March 93 to Feb., 99 for about 6 years. Learned Counsel for Ist Party Mr. Aditya Ahiwasi submits that his termination of services of Ist party workman is in violation of Section 25-F of I.D. Act, relief of reinstatement with back wages would be allowed. In support of his argument, relies on ratio held in

"2010-III-MPLJ-457 case of Sanjay Kumar versus Chief Executive Officer, Ratlam, in concluding para, their Lordship observed in facts and circumstances of the case Court is of the view that learned trial Court rightly allowed the petition by the petitioner and set aside the order of termination. That there was no justification on the part of learned court below in not awarding the back wages."

14. Mr Tripathi learned counsel for management on the point relies on :

"Ratio held in case of Santokh Singh versus Chandigarh Administration reported in 2006(13) Supreme Court Cases 751. Their Lordship dealing with the relief after termination of service, compensation in lieu of reinstatement and pensionary benefits. Temporary employee allowed to put in 34 years of service and relieved by termination

simpliciter. He having no legally enforceable right. Held this case deserves sympathetic consideration on humanitarian grounds. Respondent authority to pay the appellant a lumpsum amount of Rs. 50,000.

In case of M/s Ruby General Insurance Co. Ltd. versus Shri P.P. Chopra reported 1969(3) Supreme Court Cases 653. Their Lordship held that (i) normal rule is that in case of invalid orders of dismissal, industrial adjudication would direct reinstatement of a dismissed employee. Nevertheless there would be cases where it would not be expedient to adopt such a course.

(ii) In the present case, the reinstatement directed by the Tribunal was inexpedient. For the respondent had served the company only for 12 months. No one induced him to give up service. The Company's establishment was small. The respondent, as a stenographer in whom trust could be placed did not inspire confidence in the Regional Manager. The Tribunal erred in reinstating him. It should have awarded him only compensation."

The facts of present cases are not comparable with the case at hand. The services of workman are not terminated in any kind of misconduct, therefore ratio held in above case cannot be applied to the case at hand.

In case of Shri Rajkumar versus Jalagaon Municipal Corporation reported in 2013(2) Supreme Court Cases 751. Their Lordship in para-5 of the judgment observed in view of findings recorded by Learned Single Judge and Division Bench of High Court recorded a finding that appellants were temporarily appointed on daily wages as and when work was available and not posted on regular basis against any sanctioned post. Hence held there is no reason and justification to interfere with the orders passed by the two courts refusing to set aside termination of appellants. However we are of the view that direction for payment of Rs. 10,000 to the appellants will not compensate them hence appellants who approached for conciliation after 8 to 10 years from the date of termination are entitled to a sum of Rs. 50,000 each whereas appellant who approached conciliation officer within 2 to 3 years shall be entitled to get a sum of Rs. 1,00,000."

15. Learned Counsel for workman relies in ratio held in—

"Case of Hajinder Singh versus Punjab State Warehousing Corporation reported in 2010(3) Supreme Court Cases 192. The finding of the Labour Court termination holding unlawful and awarding reinstatement with 50% back wages was upheld by the Lordship. Careful reading of this judgment clearly shows that the workman was in service from 5.3.86 after 7 months, the engineer of the corporation issued order dated 3.10.86 whereby the appellant as work Munshi in the pay scale of Rs. 350-525 for three months. His services ended on 4.5.87.

The judgment in Case of Shri Rajkumar versus Jalgaon Municipal Corporation reported in 2013(2) Supreme Court Cases, compensation Rs. 50,000 was allowed to some of the employees who had approached for conciliation proceedings after lapse of 8 to 10 years and Rs. 1 Lakh to the employees approaching for conciliation proceeding within 2-3 years.

In present case, such long lapses are not noticed. In present case, workman was in continuous service for 6 years. Considering his services are not terminated for any kind of misconduct, considering his length of services and age at the time of termination, in my considered view, compensation Rs. 1,50,000 would be appropriate. Accordingly I hold and record my finding in Point No. 2.

16. In the result, award is passed as under:—

- (1) Action of the management of State Bank of India, Region-I, Jabalpur (MP) in terminating the services of Shri Santosh Kumar Mishra, S/o Shri J.P. Mishra serving previously at the Market Branch, Katni w.e.f. 8.3.99 after serving continuously from 1994 in not proper.
- (2) Management is directed to pay Rs. 1,50,000 as compensation to the workman Shri Santosh Kumar Mishra.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2576.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) कि धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्वी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 64/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं० एल-41012/94/2005-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2576.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown

in the Annexure, in the industrial dispute between the management of South East Central Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41012/94/2005-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/64/2007

Date: 18.10.2013

Party No.1 : The Sr. Divisional Commercial Manager,
South East Central Railway, Nagpur
Division, Nagpur.

Party No. 2 : The General Secretary,
Parcel Porter Sanghtana,
South East Central Railway,
New Mankapur, Plot No. 37,
Mhada Colony, Nagpur-440 030.

AWARD

Dated: 18th October, 2013

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of SECR and their workman, Shri Arun Barsagade, for adjudication, as per letter No. L-41012/94/2005 dated 14-11-2007, with the following schedule:—

"Whether the Parcel/Hammal is workman of the Railway Administration? If so, whether the action of the management of South East Central Railway, Nagpur Division, Nagpur (MS) in terminating/stopping from the services of Shri Arun Barsagade, Parcel Porter w.e.f. 03-01-2005 is proper and justified? If not, what relief the parcel porter is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the claimant, Shri Barsagade, ("the claimant" in short), filed the statement of claim. However, the management of SECR, ("Party No. 1" in short) failed to file their written statement.

The case of the claimant as presented by the union in the statement of claim is that it (the union) is a registered trade union under the Trade Unions Act, 1926 and the claimant is its member and the Indian Railway have been divided into various railways including South Eastern Central Railway and the Railway is engaged in various systematic activities with the motive to make gain and

profit and management of Railways carry the business of transportation of goods/parcels and accept parcels at all the Railway stations to send the same to different places and the parcels are loaded in and unloaded from wagons and for the same, the wagons are required to be opened and re-sealed, whenever it is required and for such loading, unloading, opening, sealing or re-sealing, the labourers called parcel porters are being engaged in all Railway stations and the said works are of permanent and perennial in nature and under the contract Labour (Abolition and Regulation) Act, 1972, contract labours cannot be engaged from execution of permanent and perennial nature of work.

The future case of the claimant as presented by the union is that the claimant was working in Gondia Railway station as a parcel porter from the year 1994-95 and he had completed more than 240 days of continuous service and he was entitled to be treated as a Regular Railway Parcel Porter from the date of his initial appointment and he is also entitled for the same salary, which was being paid to regular parcel porters and the appointment/recruitment of the claimant was made through the notification dated 08.08.1994, after interview and following other procedures laid down in the Railway Recruitment Rules as parcel porter and the Railway administration allowed the claimant to work in parcel office only for four hours in a day since 1994 to May, 1997 and subsequent to May, 1997, the working hours were increased to eight hours in a day, but the management did not allow the claimant to work for the whole month like the regular railway parcel porters and the claimant was allowed to work for 20 to 25 days, in a month and his wages was also reduced, in violation of section 9-A of the Act stating that there was no sufficient work in the station and the workman was working under the control of the Railway administration and payment for such work was also being made by the Railway Administration and there was employer and employee relationship between the Party No. 1 and the claimant and the claimant was a "workman" as per the definition of section 2(s) of the Act. It is also pleaded that the claimant was a casual parcel porter and not a licensed porter and he was in the muster rolls of Party No. 1 and he had completed 120 days of work long before, as casual parcel porter and he was entitled for temporary status with the pay scale of Rs. 2540-3200 and he was issued experience certificate and identity card by the station manager and Party No. 1 acted in violation of the directives of the Railway Board dated 30.07.1997 and the Senior Division Commercial Manager, SEC Railway issued one circular dated 19.10.2004 without any authority or valid reason, drastically reducing the wages of the claimant and other casual parcel porters, in utter disregard to the earlier circulars issued by the Railways for payment of wages to the parcel porters under the Minimum Wages Act and when the parcel porters refused to accept the reduced wages, the management of party No. 1 stopped the claimant and other parcel porters from carrying out their routine duty of

loading and unloading railway parcel and Party No. 1 after sitting over the issue for several years, lastly in the year 2009, paid arrears of wages to the parcel porters as per the Minimum Wages Act and the claimant had completed more than 120 days of continuous service with Party No. 1 on several occasions in between his initial date of appointment and January, 2005, when he was forcibly stopped to work, by the Party No. 1 and the claimant had attained temporary status immediately on completion of 120 days of work and consequently, he should have been absorbed in the employment of the Railways as per the existing rules of the Railways.

It is also pleaded by the union on behalf of the claimant that it (union) had initially raised the industrial dispute on behalf of the parcel porters including the case of the present claimant and the Government of India had made two references and the said references had been numbered as 203 of 98 and 289 of 99 at the CGIT, Jabalpur and the said references were tagged together and numbered as CGIT/NGP/36/2002 by this Tribunal, after receipt of the same on transfer and in the said case, award was passed by this Tribunal in favour of 203 claimants on 28.03.2008 and the Party No. 1 challenged the award dated 28.03.2008, before the Hon'ble High Court, Nagpur Bench, Nagpur in writ petition No. 4472/2008 and the Hon'ble High Court *vide* order dated 14-10-2009 remanded the case to this Tribunal for disposal of the same afresh, as per the directions given in the said order by the Hon'ble Court and this Tribunal disposed of the case afresh, as per the award dated 15.07.2010, granting relief to 152 parcel porters for their regularisation by giving them temporary status with regular pay and though the present claimant had filed his evidence on affidavit, he could not present himself for cross-examination and as the claimant did not prove his claim, he was not granted the relief of regularization and as the earlier case was not decided on merits in relation to the claimant, the principles of "resjudicata" will not apply and the earlier case was for he relief of regularization, whereas, the present dispute is against the illegal termination of the services of the claimant.

Prayer has been made by the union to declared the claimant as a workman and to treat the claimant as a regular permanent Railway Parcel porter from the date of his initial date of appointment and termination of the services of the Claimant as illegal and the reinstate him in service with all consequential benefits.

3. It is to be mentioned here that, this case was registered on 26-01-2008 on receipt of the reference dated 14.11.2007 from the Central Government and parties were noticed to file their respective statement of claim and written statement and on 17-07.2008, the management of South East Central Railway, Nagpur appeared in the case through their counsels, Shri V.M. Gadkari and Shri R.G. Rathod. The learned advocate for the management filed an application

on 17-07.2008 for adjournment to file reply. It appears a from the record that the case was adjourned from 17-07-2008 to 07-10-2008, from 07.10.2008 to 16.12.2008 and from 16.12.2008 to 08.04.2009, without any progress due to absence of the parties. It also appears from the record that from 08.04.2009, the case was adjourned to 14.07.2009 and on 14.07.2009, though both the parties appeared in the case, neither the statement of claim nor the written statement was filed and the case was adjourned to 06.10.2009. The record was not put on 06.10.2009 or thereafter till 06.08.2012 before the Presiding Officer. The parties also did not take any action in the matter. On 06.08.2012, during formal inspection of the records, the non put up of the record came to light. The Bench clerk was warned for such lapses and order was passed to issue notice afresh to both the parties. Accordingly, notices to both the parties were sent by registered post with acknowledgement due and the case was posted to 10.09.2012 for filing of statement of claim and written statement by the parties. On 10.09.2012, the union representative for the claimant appeared and filed the statement of claim and documents. Though the service of the notice issued to the management by registered post with acknowledgement due was sufficient, the management neither appeared nor filed any written statement. As no written statement was filed by the management, on 22.01.2013, order was passed to proceed with the case without written statement and the case was posted to 25.02.2013 for adducing of evidence from the side of the claimant, on affidavit. On 25.02.2013, the evidence of the claimant, Arun Madhukar on affidavit along with one document was filed and the case was posted to 14.05.2013 for the cross-examination of the claimant. On 14.05.2013, as none appeared on behalf of the management to cross-examine the claimant, in the interest of justice and to give the management a fair chance to participate in the case, the case was adjourned to 12.08.2013 for the cross-examination of the claimant. On 12.08.2013 also, as none appeared on behalf of the management to cross-examine the claimant, order of "No cross" of the claimant was passed and the case was adjourned to 19.09.2013 for hearing of argument from the side of the claimant. On 19.09.2013, argument from the side of the claimant was heard and the case was posted for award.

4. At this juncture, I think it necessary to mention that in this case, order has been passed to proceed *ex parte* against the management as they failed to appear and file written statement and take part in the case. However, it is well settled that even where the management is set *ex parte*, the claimant is not absolve from the responsibility to prove his case and it is also necessary for the court, in such cases, to satisfy it that the claimant is entitled on the terms of statute to the relief prayed for.

In view of such settled principles, now, the present case is to be considered with the touch stone of the said principles to find out as to whether the workman is entitled to the reliefs as claimed by him.

In view of the own pleadings made by the claimant and his evidence on affidavit that the union had raised the industrial dispute of regularization of the parcel porters including himself in case No. CGIT/NGP/36/2002 and the said case was finally disposed of on 15.07.2010 by this Tribunal, granting relief of regularization to 152 parcel porters and though he had filed his evidence on affidavit, he could not able to remain present for corss-examination and thus failed to prove his claim and for that he was not granted the relief of regularization and as the said case was not decided on merits in respect of his claim and in the earlier reference, the issue was regarding regularization of the parcel porters, whereas, the present case is in regard to the termination of his services, the reference is not hit by the principles of *res-judicata*, at first, it is to be considered as to whether the present reference is hit by the principles of *res-judicata* and *estoppels*.

On perusal of the copy of the award passed on 15.07.2010 by this Tribunal in case No. CGIT/NGP/36/2007, it is found that in the said reference, the disputes referred were as to whether the parcel porters working with the Party No. 1 are "workmen" and as to whether they are to be provided eight hours work daily regularly and declare Railway "employees" and to what relief they are entitled to. However, in this reference, the schedule of reference is as to whether the claimant is a workman as per the provision of section 2(s) of the Industrial Disputes Act, 1947 and as to whether the action of the Party No. 1 in terminating his services *w.e.f.* 30.01.2005 is proper and justified. It is found that the first link of the schedule of reference of both the cases is similar, whereas, the other links of the schedule of both the reference are quite distinct and different. Moreover, the first link as to whether parcel porters are workmen or not had been answered by this Tribunal and so also, by the Hon'ble High Court, Nagpur Bench, Nagpur in writ petition No. 4472/2008 in favour of the parcel porters holding that "Parcel Porters" are "workmen" in terms of section 2(s) of the Act. Hence, it is held that this reference is not hit by the principles of *res-judicata* or *estoppels*.

6. So far the question as to whether, the claimant is a "workman" as per the provisions of section 2(s) of the Act is concerned, it is clear from the materials on record that the Party No. 1 is an industry and it is doing business of transportation by sending parcels and different articles and goods from one place to another and is earning huge profit from the said business and parcel porters are being engaged by the Railway for loading and unloading of the parcels and articles in the wagons and are paid wages for the same by the Railway and the Railway Authorities use to have full control over the parcel porters. So applying the definition of "workman" given in section 2(s) of the Act, it is found that the claimant is a workman.

7. In view of the unchallenged testimony of the claimant and the documentary evidence filed by the claimant on

record, it is found that the workman had worked for 240 days in the preceding calendar year of his date of termination i.e. 03.01.2005. It is also found that the claimant had also worked for more than 120 days continuously as casual parcel porter and was entitled for temporary status, as per circular of the Railway Board dated 15.05.1996. It is also found that the workman was terminated from services on 03.01.2008, without compliance of the mandatory provisions of section 25-F of the Act amounts to retrenchment and is held to be illegal.

8. Now, the only question remains for consideration is as to what relief of reliefs the claimant is entitled to. After taking into consideration that the work of parcel porter is of permanent and perennial in nature and available round the year and that the claimant was entitled for temporary status and regularisation as an employee of Party No. 1 as per rules and his termination is illegal, the claimant is entitled for reinstatement in service as a parcel porter with continuity and all consequential benefits.

So far payment of the back wages is concerned, for grant of back wages, it is necessary for the claimant to plead and prove that from the date of termination, he was not gainfully employed. In this case, the claimant has neither pleaded nor proved that from the date of his termination, he was not gainfully employed. Hence, the workman is not entitled to back wages. Hence, it is ordered:

ORDER

The Parcel/Hammal is workman of the Railway Administration. The action of the management of South East Central Railway, Nagpur Division, Nagapur (MS) in terminating/stopping from the services of Shri Arun Barsagade, Parcel Porter w.e.f. 03-01-2005 is improper and unjustified. The claimant is entitled for reinstatement in service as a Parcel Porter with continuity and consequential benefits. The claimant is not entitled to any back wages.

J.P. CHAND, Presiding Officer.

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2577.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर पूर्वी रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 110/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं० एल-41011/32/2011-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2577.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2011) of the Central Government Industrial Tribunal -cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 11.11.2013.

[No. L-41011/32/2011-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, LUCKNOW

PRESENT:

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 110/2011

Ref. No. L-41011/32/2011-IR(B-I) dated 27.07.2011

BETWEEN:

Working President,
Rail Sewak Sangh,
Purvottar Railway, Lucknow Division,
Lucknow

AND

1. The Divisional Railway Manager,
Purvottar Railway, Ashok Marg,
Lucknow
2. Sr. Divisional Engineer,
Purvottar Railway,
Lucknow

AWARD

1. By order No. L-41011/32/2011-IR(B-I) dated 27.07.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Working President, Rail Sewak Sangh, Purvottar Railway, Lucknow Division, Lucknow (Espousing cause of Sri Lautan S/o Sri Mahavir) and the Divisional Railway Manager, North Eastern Railway, DRM office, Ashok Marg, Lucknow and the Sr. Divisional Engineer, Purvottar Railway, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the action of the management of North Eastern Railway, Lucknow in not making payment of

due retirement gratuity and pension to Shri Lautan S/o Sri Mahavir on his retirement on 30.04.2009, is legal and justified? To what relief the workman is entitled?"

3. In brief of the case that workman was appointed on 16.10.1972 as casual labour, Blacksmith (skilled grade) under the then permanent way Inspector, NE Railway Station Malhore, thereafter his services were discontinued. The workman was again appointed as Casual Labour Lohar on 16.05.1984 in class III skilled category. He continuously worked from the date of his appointment till date of his superannuation on 30.04.2009. Workman union stated that workman got temporary status as Lohar w.e.f. 16.09.1984 and he passed medical test in the year 1984. Workman was regularized in service on 06.03.2009 and retired from service on 30.04.2009. The workman union further stated that workman rendered his services for 24 years so he is entitled for retrial benefits. The workman prayed for payment of gratuity and pension along with 12% interest.

4. The management filed written statement and denied the claim of the workman. The management stated that Railway Board, New Delhi introduced a New Pension Scheme w.e.f. 01.01.2004, under which the scheme for grant of temporary service of casual labours has been modified vide Railway Board's letter No. E(NG)II/2004/CL/16/Policy dated 17.09.2004. The para No. 1 of the letter is reproduced below:

As the New Scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance. Consequently, no credit to casual labour service *i.e.* counting of the service rendered under temporary status, for the purpose of retirement benefits after their regularization, shall be available to the casual labour on their regularization against Group 'D' posts on or after 01.01.2004.

5. It was further stated by the management that no deductions were made from the workman's salary towards SRPF and GIS, hence the same was not payable to him. The management has prayed that claim statement filed by the workman being devoid of merit is liable to be dismissed is not maintainable.

6. On 19.09.2013 the representative of the workman filed an application W-15 stating therein that union is not willing to contest this case further as such it may be treated as withdrawn.

7. In the above circumstances, it appears that the workman's union does not want to pursue its claim on the basis of which it has raised present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workman.

Resultantly no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

8. Award as above.

LUCKNOW

19.09.2013

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2013

का०आ० 2578.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 16/2004) को प्रकाशित करती है, जो केंद्रीय सरकार को 11/11/2013 को प्राप्त हुआ था।

[सं एल-41012/268/2003-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 11th November, 2013

S.O. 2578.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2004) of the Central Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway, and their workmen, received by the Central Government on 11/11/2013.

[No. L-41012/268/2003-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/16/2004

Presiding Officer: SHRI R.B. PATLE

Shri Amresh Kumar,
S/o Shri Premnarayan,
R/o Barah Bunglow,
Qtr. No. 512 E,
Railway Colony,
Double Storey, Itarsi,
Hoshangabad

.....Workman

Versus

Divisional Railway Manager,
Central Railway,
Habibganj,
Bhopal

....Management

AWARD

Passed on this 1st day of October 2013

1. As per letter dated 26-2-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/268/2003-IR(B-I). The dispute under reference relates to:

"Whether the action of the DRM, Central Railway, Bhopal in terminating the services of Shri Amresh Kumar S/o Shri Premnarayan w.e.f. 2-11-88 and not regularizing him is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/2. Case of Ist Party workman is that he was continuously working for more than 240 days prior to date of his termination. That termination of his services amounts to retrenchment under Section 25-F of I.D. Act. No compensation was paid prior to termination of his services. Therefore he is entitled to be reinstated with back wages.

3. IInd party filed Written Statement at page 5/1 to 5/2. IInd party denied claim of Ist party workman. The claim of workman is not supported by documents. His claim is vague, liable to be dismissed. That the claim of workman suffers from latches. Workman has not sown period, place and department of his working. He had not submitted representation regarding termination from employment. IInd party denied that the workman was continuously working for 240 days in calendar year. That he has not produced appointment letter issued by the IInd party. It is denied that the termination from service amounts to illegal retrenchment. On such ground, IInd party prays for rejection of claim of workman.

4. Workman filed rejoinder at 7/1 to 7/3. Workman has pleaded that he was engaged by IInd party as substitute safaiwala from 6-4-86. He continuously rendered services from 1-10-87 to 31-1-88 for 120 days. During the period Feb-88 to Oct-88, he rendered service for 143 days. Thus he was working for more than 240 days preceding 12 months of termination of his services. That he is covered as workman under Section 25-B of I.D. Act.

5. Workman further pleaded that he was given status of monthly rated casual labour from 30-7-87 after medical examination. He was paid monthly wages on regular pay sheets from January, 88 without complying provisions of Section 25 of I.D. Act. his services were suddenly terminated. Compensaiton in lieu of notice was not paid to him. Employees junior to him were engaged by IInd party after dispensing his services. He was paid bonus Rs. 743 for the period 87-88 Rs. 1134 for the period 88-89. That IInd party conducted Screening of ousted workman like him

pursuant to letter of DRM Bhopal dated 27-3-97. That despite of screening for the post of safaiwala, IInd party denied to give appointment to him. That he had acquired temporary status on completion of more than 240 days service. He was deserving absorption as permanent safaiwala.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the In Negative
DRM, Central Railway,
Bhopal in terminating the
services of Shri Amresh
Kumar, S/o Shri Prem-
narayan w.e.f. 2-11-88
and not regularizing him
is legal?

(ii) If not, what relief the As per final order.
workman is entitled to?"

REASONS

7. As per terms of reference, legality of termination of services of Ist party workman Amresh Kumar w.e.f. 2-11-88 and denial of regularizaton in service needs to be adjudicated. Workman filed affidavit of his evidence. He has stated in his affidavit that he was appointed by Chief Yard Master, West Central Railway, Nishatpura, Bhopal from 6-4-86 as safaiwala. That he rendered continuous service from date of initial appointment till October 1988. He was given status of monthly rated casual labour from 30-7-87. He was paid monthly wages from January 1988. That he was given status of MRCL from 1-10-87 till October 1988. He rendered continuous service for more than 240 days. He was retrenched from 2-11-88. He was paid bonus in 1987-88 and 88-89. The documents produced by workman Exhibit W-1 shows that workman was continuously working from 1-10-87 to 31-1-88. 31 days in October 87, 30 days in November, 31 days in December 87 and 30 days in January 1988. He had worked for total 120 days. Document Exhibit W-2 shows the working days during period 1986 to December 1987 and January 88 to October 88 total 478 days Exhibit W-3 is Certificate of fitness issued by the Medical Examiner. Exhibit W-4 is the copy of order dated 2-11-88 taking out workman from work. Exhibit W-5 is a document showing payment of bnus to workman in 1987-88 and 88-89. Original of those documents are produced on record.

8. Ist Party workman in his cross-examination admits that he had passed 6th standard. Whenever regular employee was proceeding on leave, he was taken on duty of safaiwala. After regular employee was returning on duty, his services were discontinued. He was paid bonus. He had worked for 120 days. He denies suggestion that he

had not continuously worked for 120 days. In further cross-examination, it is devoted that documents produced by him bears signature of Officer Shri Sharma. That he had worked till 1989. He also admits that he was working from 2-4-89 to 8-4-89. From his evidence, it is clear that Ist Party workman was engaged as substitute during leave vacancy of regular employee.

9. IInd Party filed affidavit of witness Shri Pradeep Singh. Management's witness has stated that Ist Party workman was engaged as casual labour on Staff Gap Arrangement. He was not appointed as regular employee. He was engaged as per exigency when regular employee was suffering from illness. That he is not a regular employee. In his cross-examination, management's witness says he was working as Yard Master at Nishatpura, Bhopal on 6-4-86. He was unable to tell in whose place, Ist party workman was engaged as a substitute when regular employee had returned to duty. From payment of bonus, it cannot be proved that the Ist Party workman was continuously working during 87-88 & 88-89. The services of Ist Party workman were terminated from 2-11-88. Therefore working days of workman during year preceding his termination needs to be considered till 1-11-87. The documents Exhibit W-2 shows working days during calendar 12 months comes to 254 days.

10. Learned counsel for workman Shri Pranay Choubey pointed out my attention to Railway Establishment Rules and Labour Laws by Shri K.P. Sharma. Chapter 20 deals with the casual labour. Rule-3 provides:—

"Where the engagement of fresh faces is sanctioned by the General Manager personally, the following procedure shall be followed—

- (a) Persons to be engaged as fresh faces should be drawn only from the lists to be prepared by each Division for this purpose generally once a year.
- (b) Inclusion of names in this list will be based upon screening by a committee of three officers, one of whom should be an officer of personnel department and other from among the departments concerned. Further one of the members of this screening committee should be from SC/ST and one from a minority community by co-opting a fourth officer, wherever necessary.

Rule-8 deals with temporary status. Casual labour excepting those working on projects on completion of 120 days continuous service either on the same work or other work of some type shall be given temporary status.

- (a) those who have completed five years of service as on 1-1-81 to be treated temporary from 1-1-1981.

- (b) Those who have completed three years service but less than five years as on 1-1-81 to be treated temporary from 1-1-82.
- (c) Those who have completed 360 days but less than three years on 1-1-1981 to be treated as temporary from 1-1-1983.

Rule-9 provides benefits of temporary status. Casual labour acquiring temporary status are entitled to all rights and privileges as admissible to temporary Railway employees *i.e.* revised scale of pay, house rent and compensatory allowance, dearness allowance, increments, leave, medical facilities, passes, PTOs, casual leave, hospital leave advances, and 3 National Holidays PLB. Such casual labour shall also be governed by the Conduct Rules, Discipline and Appeal Rules.

Rule-19 provides casual labour whether employed on open lines or constructions of Railway projects or in Workshops if retrenched, the conditions required under Section 25-F of Industrial Disputes Act 1947 re to obe complied with otherwise retrenchment order would be invalid and casual labour would be treated as in service till such conditions are fulfilled. Therefore no workman or casual labour having continuous service for not less than one year under an employer shall be retrenched until:

- (a) One month's notice in writing indicating reasons is given and the period of notice has expired or the casual labour has been paid in lieu of notice wages;
- (b) He is given compensation equivalent to 15 days average pay for every completed year continuous service or part thereof; and
- (c) Notice in prescribed manner is served.

11. The evidence and documents discussed above show that the workman has completed 240 days continuous service prior to termination of his service. IInd Party had not issued notice, no retrenchment compensation was paid to workman. Thus the termination of services of workman is in violation of Section 25-F of I.D. Act and Rule-19 discussed above. Therefore the action of the IInd Party is not legal. I record my finding in Point No. 1 in Negative.

12. Point No. 2—In view of my finding on Point No. 2, termination of services of workman is illegal. Provisions of Section 25-F are not applied. The question arises to what relief the workman is entitled? The services of workman working as a substitute were terminated from 2-11-88 almost 25 years back. Workman was granted temporary status as per document Exhibit W-1. He was not served with any notice, no retrenchment compensation was paid. The evidence of workman that he is not gainfully employed is not shattered in his cross-examination. Notes of argument submitted by IInd Party is devoted only on the point that

workman not completed 240 days continuous service and therefore he is not entitled for reinstatement etc. As per document Exhibit W-2, it is established that the workman had completed 240 days service preceding the termination of his service. As per entire finding on Point No. 1, the termination of service of workman is illegal. Therefore having in violation of Section 25-F and Rule 19 discussed above, the workman was working from April 86 to October 1988 for about 2½ years, workman is out of employment for about 25 years, in my considered view, reasonable compensation would be appropriate. The relief of reinstatement with back wages would not be proper. Considering facts of the case and period of employment, compensation Rs. 1 Lakh would meet the ends of justice. Accordingly I record my finding in Point No. 1 & 2.

13. In the result, award is passed as under:—

- (1) Action of the DRM, Central Railway, Bhopal in terminating the services of Shri Amresh Kumar S/o Shri Premnarayan *w.e.f.* 2-11-88 and not regularizing him is not legal.
- (2) IInd Party is directed to pay compensation Rs. 1 Lakh to the workman Amresh Kumar.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2579.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 12/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/109/2008-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2579.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 12/2009 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Ltd., Umrer Area, and

their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/109/2008-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/12/2009

Date: 28.10.2013.

Party No. 1 : The Chief General Manager,
Western Coalfields Limited, Umrer Area,
Post. & Teh. Umrer, Dist. Nagpur (M.S.)

Party No. 2 : The General Secretary,
Lal Zanda Coal Mines Mazdoor Union
(CITU), Umrer Area, Qtr. No. B/170,
Umrer Colliary Qtrs., P.O. & Th. Umrer,
Distt. Nagpur. (MS)

AWARD

(Dated: 28th October, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short) the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited, Umrer Area and their workmen, for adjudication, as per letter No. L-22012/109/2008-IR (CM-II) dated 24.03.2009, with the following schedule:—

"Whether the action of the management of M/s WCL in deducting penal rent from the salary of claimant workmen (list enclosed) is legal and justified? To what relief are these workmen entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, Lal Zanda Coalmines Mazdoor Union (CITU), Umrer Area ("The union" in short) filed the statement of claim on behalf of the workmen and the management of WCL, ("Party No. 1" in short) filed their written statement.

The case of the fifteen workmen as presented by the union in the statement of claim is that it (union) is a registered Trade union under the Trade unions Act and is affiliated to CITU and all the fifteen workmen were allotted with quarters along with 90 other employees by the Party No. 1 and Party No. 1 started deducting between Rs. 800 to Rs. 1600 per month from the salaries of the workmen from April, 2005, on the ground of their taking house building advance from the management towards construction of houses for themselves and at the same time, Party No. 1 started charging penal rent from the workmen for occupying

the quarters and such action was illegal, unjustified and arbitrary and the workmen were duly allotted with the quarters by Party No. 1 and they have no objection towards deduction of loan installments and as deduction of penal rent from their salaries was quite illegal, it lodged a complaint with the Assistant Commissioner of Labour (Central), ("the ALC" in short) against charging and deducting penal rent from the salaries of the workmen, as a result of which, the Party No. 1 stopped the deduction of penal rent and it was contended by the Party No. 1 before the ALC that the workmen, who had taken house building loan from it (Party No. 1) and constructed their own houses within the radius of 8 kilometers from the place of their working should have vacated their quarters and should have moved to their own houses and according to the Party No. 1, in all, 107 employees have constructed their own houses, but they have been in occupation of the WCL quarters and out of the 107 employees, only the 15 workmen have been picked up by the Party No. 1 for charging of the penal rent and there was no justification in adopting the pick and choose policy, in seeking vacation of the quarters and charging penal rent and such action of Party No. 1 is illegal and discriminatory and therefore, it is necessary for the Party No. 1 to refund the amount already deducted towards penal rent from the salaries of the workmen.

Prayer has been made by the union to answer the reference in affirmative and to declare that the workmen are entitled for the refund of the amount deducted towards penal rent.

3. The Party No. 1 in the written statement has pleaded *inter-alia* that all the workmen are not the members of the union and the union has not demonstrated that it was authorized by its members to raise the dispute for their cause and they are members of the union and no evidence has been placed on record to show that the union has legally espoused and championed the said dispute and therefore, no industrial dispute as contemplated by Section 2(k) of the Act is in existence and for that, the reference is not tenable.

The further case of Party No. 1 is that normally quarters are provided to employees as per the norms set out on the subject by the employer and uniform norms on the subject had been finalized during the course of Welfare Board Meeting held on 17.10.2005 and the union is well aware of the above norms and moreover, there is always shortage of quarters and in the interest of workers, management is under duty to allot the same to the needy employees as soon as possible and the circular issued by the General Manager, WCL on 18.10.2005 contains the guideline that, "The employees who have constructed their own house within the radius of 8 kilometers from the place of working shall have to vacate quarters within six months. Failure to vacate the company's quarters, the employees shall be liable for payment of penal rent at double the market rate. The

employees shall also liable for disciplinary action." and as per the Welfare Boards's Meeting held on 27.04.2004 and circulated *vide* letter No. 5954 dated 11.06.2004 to all members of the Board including the union amongst others followed by circular dated 18.10.2005 of the General Manager, Welfare In-charge of the Company's headquarters it was decided that, "House building advance from WCL: It was also discussed and agreed that the employees who had taken loan and constructed house at the place of their posting should not be allotted company's quarters. Such employees should vacate the company's quarters and move to their own house. Action be taken by Area CGMS/GMS/GM(G&D) HQ." and therefore its action in deducting penal rent from the workmen was fully consonance with the above instructions and joint policy decision of the unions and the management at company level and the action is therefore just, fair and legal and 133 employees were given the appropriate building advance and out of them, 26 employees built up their own houses in locations within 8 kilometers radius from their place of working, but they did not vacate the quarters of the company, which were earlier provided to them and therefore, in pursuance to the instructions as referred above, they were given notices in writing to immediately vacate their respective quarters and the workmen neither replied to the said notice nor vacated the quarters, so decision was taken by it to charge penal rent, as the occupation of the quarters became unauthorized and accordingly, penal rent ranging from Rs. 800 to 1,600 came to be recovered from the salary of the workmen from the month of March, 2005 onwards and continued till August, 2005 and as the dispute was raised, to avoid aggravation of the matter and to maintain industrial peace, such deductions were kept in abeyance and the union having been party to the policy decision of deduction of penal rent should not be permitted to agitate the issue, by applying the principles of estoppels and the workmen are not entitled to any relief.

4. In support of their respective stands, both the parties have led oral evidence, besides placing reliance on documentary evidence.

On behalf of the union, Shri Bhaskar Haldar, the General Secretary of the union has been examined as a witness, whereas, Smt. Annama Chacko, a Sr. Manager (Personnel) of Unrer Area has been examined as a witness on behalf of the Party No. 1.

5. Shri Bhaskar Haldar, the witness examined on behalf of the union in his examination-in-chief, which is on affidavit has reiterated the facts mentioned in the statement of claim. This witness has further stated that some of the workmen were allotted with quarters in the eighties and there is no justification in re-opening the issue of penal rent in 2005 and the claim of the Party No. 1 that members of the WCL Welfare Board had agreed to the arrangement of vacation of quarters and charging of penal rent is false.

In his cross-examination, this witness has admitted that no resolution was passed by the union to raise the dispute on behalf of the workmen and no document has been filed to show that the workmen have requested the union to raise the dispute on their behalf. This witness, have in his cross-examination has further admitted that the workmen had taken house building loan from the management for construction of their own houses and all the workmen were served with notice by the management to vacate the quarters in their occupation and the workmen did not reply to the said notices individually and approached the union and the union submitted the reply and there is a committee of WCL management, which considers the allotment of quarters to the workers and the policy for allotment of quarters is decided by the management with consultation and discussion with the aforesaid committee and management had issued notice to the workmen, who had taken house building loan for construction of residential houses for them, within 8 kilometers radius of the colliery, to vacate the quarters allotted to them and Mr. P.V. Nair is a leader of their union and he is a member of the Welfare Board constituted by the management of WCL.

6. The examination-in-chief of Smt. Annama, the witness examined on behalf of the Party No. 1, on affidavit is on the same line of the stands taken by the Party No. 1 in the written statement. This witness has stated that in the meeting of the company's Welfare Board held on 27.04.2004, in which all the representatives of the major unions including the union, CITU were included, a decision was taken that those employees who had taken loan and constructed house at the place of their posting should not be allotted company's quarters and they should move into their own houses and the General Manager, Welfare In-charge of the company's head quarters, *vide* his letter dated 18.10.2005 addressed to all area, conveyed that employees who have constructed their own houses within a radius of 8 kilometers, from the place of working shall have to vacate the quarters within six months, failing which, they would be liable for payment of penal rent and following the policy decision, notices were issued to all the concerned employees to vacate the company's quarters and in the said notices, reason for effecting the deduction of penal rent was also specified, but the workmen neither gave any reply to the notices nor made any representation against the proposed deduction.

In her cross examination, the witness for the Party No. 1 has stated that house building loan was given to the workmen in 2003-2004 and at the time of advancing the house building loan to the workmen, no condition was imposed by the WCL and in 2004, decision was taken by the management after holding a meeting with the major unions not to allot quarters of the company to the employees, who had taken house building loan for construction of house and constructed house at the place of their posting. In the cross-examination of this witness, it

has been brought out by the union that the unions, Rashtriya Koyala Khadan Mazdoor Sangh (INTUC), Samyukt Khadan Mazdoor Sangh (SKMS) and Lal Zanda Coal Mines Mazdoor union were parties to the decision taken on 27.04.2004 and Ext. M-I is the letter of the management of WCL for implementation of the said decision and 26 employees defaulted in vacating the quarters and all of them were noticed and penal rent was deducted from their salary and the representatives of the unions had signed the minutes dated 27.04.2004.

7. At the time of argument, it was submitted by the learned advocate for the union that quarters were duly allotted to the workmen and house building loans were given to the workmen long before the decision dated 27.04.2004 and at the time of allotment of the quarters and advancing of the house building loans to the workmen, there was neither any provision nor any condition to vacate the quarters, on construction of their respective residential houses and on failure to vacate the quarters, they have to pay penal rent and as such, the decision dated 27.04.2004 cannot be applied retrospectively to their cases and such conditions can be imposed only on new incumbents at the time of allotment of quarters or at the time of sanction of house building loan and recovery of penal rent and vacation of quarters due to sanction of house building loan long back is illegal, unlawful and against the principles of natural justice and as such, the reference is to be answered in favour of the union and the workmen are entitled for refund of the amount of penal rent deducted from their salaries.

8. Per contra, it was submitted by the learned advocate for the party No.1 that the union has failed to place on record any material which supports the existence of valid industrial dispute as per requirement of section 2(k) of the Act and there is no request or authority of the workmen to file the dispute by the union on their behalf and as such, the dispute is not valid.

It was further submitted by the learned advocate for the party no.1 that the policy decision dated 27.04.2004 was taken by the management in the meeting held with the unions including the disputant union and the decision that the employees to whom house building loan had been sanctioned by the management to built up their own houses within a radius of 8 KMs from the place of their working are to vacate the quarters allotted to them was required to be taken, because there was shortage of quarters and the said decision was circulated by the management and after due notice, as the workmen failed to vacate the quarters or to submit any reply, penal rent was deducted from their salaries of the month of March, 2005 and such facts have been proved by the documents filed by the management and the evidence of the management and due to raising of the dispute, such deduction was stopped to keep good atmosphere and the workmen are not entitled to any relief.

9. On perusal of the materials on record including the evidence, both oral and documentary adduced by the parties, the following undisputed facts are found:

- (i) The workmen were duly allotted with quarters prior to the decision taken by the management of party no.1 with consultation and the consent of the unions in the welfare Board meeting held on 27.04.2004.
- (ii) The workmen were given house building loans for construction of their residential houses within 8 KMs. Radius of their respective place of working, prior to 27.04.2004
- (iii) No provision or condition was attached in the Rules for allotment of quarters or advancing of house building loans, to vacate the quarters by the workmen, on construction of their own houses, while advancing of the house building loan or allotment of quarters to them.
- (iv) That on 27.04.2004, there was a meeting of the WCL Welfare Board consisting of the representatives of all the major unions including the disputant union and the representatives of the Party No 1 on 27.04.2004 and Shri B.K. Rai, the representative of the disputant union, who was a member of the Welfare Board attended the meeting of the Welfare Board.
- (v) That in the meeting dated 27.04.2004, it was decided by the Welfare Board that the employees who had taken loan and constructed house at the place of their posting should not be allotted company's quarters and such employees should also vacate the company's quarters and move in to their own house. Action to be taken by Area CGMS/GMS/GM (GSD) HQ. and the minutes of the meeting dated 27.04.2004 was circulated in all areas of WCL by letter No. 5954 dated 11.06.2004.
- (vi) That all the workmen were noticed by the management to vacate the quarters allotted to them in view of their taking house building loan for construction of their houses and constructing their house within the radius of 8 kilometers from Umrer Project and in case of their failure to vacate the quarters, management would be compelled to deduct the penal rent from their salary/wages from the month of March, 2005 and inspite of receipt of the notice, the workmen neither vacated the quarters nor submitted any individual reply to the same.

- (vii) That the union took up the cause of the employees against the issuance of such notices by submitting letters, Exts. W-I, W-II and W-III.

10. So far the representation of the workmen by the union is concerned, it is to be mentioned that from the record, it is found that the union had raised the dispute on behalf of the employees before the management and so also before the Conciliation Officer and in the reference made by the Central Government also, the union has been made a party. Even though, the union has not filed any document to show that the workmen are members of the union, in view of the provision of Section 36(2)(c) of the Act and the facts mentioned above, it is held that, there is no hindrance for the union to espouse the dispute on behalf of the workmen.

11. It is to be mentioned here that the contention raised on behalf of the union that the workmen have been discriminated, as out of 107 employees, the workmen have been picked up by the Party No. 1 has no force, in view of the pleadings made by the Party No. 1 that action of deducting penal rent from the salary of the employees was taken against the employees who did not vacate the quarters and the unchallenged evidence of the witness for the Party No. 1 that, "notices were issued to all the concerned employees individually to vacate the company's quarters" and the document, Ext. M-II, which has been admitted into evidence on admission and which shows deduction of penal rent from 28 employees and not only the workmen as claimed. Hence, the contention raised on that score fails.

12. It is found from record that in view of the policy decision dated 27.04.2004, the Party No. 1 took action against the workmen and others and issued notice vacate the quarters and in case on their failing to vacate the quarters to deduct penal house rent. As the workmen and some other employees failed to vacate the quarters even after receipt of notice, the Party No. I deducted penal rent from their salary. So, it is found that the policy decision dated 27.04.2004 was enforced prospectively and not retrospectively and no illegality was committed by the Party No. 1 in deducting the penal rent from the workmen for occupying the quarters allotted to them, even after receipt of the notice to vacate the same, basing on the unchallenged policy decision of the Welfare Board dated 27.04.2004 Hence, it is ordered:—

ORDER

The action of the management of M/S WCL in deducting penal rent from the salary of claimant workmen (list enclosed) is legal and justified. The workmen are not entitled to any relief.

J. P. CHAND, Presiding Officer

लालझंडा कोल माईन्स मजदूर युनियन
LALZANDA COAL MINES MAZDOOR UNION

वेतन काटे जा रहे कामगारों की सूची

1. श्री के.सी. सिंह	अप्रैल 2005 से वेतन कटौती	रु 1400.00
2. श्री डी.डी. बोंदरे	अप्रैल 2005 से वेतन कटौती	रु 880.00
3. श्री शंकर पोकरे	अप्रैल 2005 से वेतन कटौती	रु 880.00
4. श्री आर.एस. जाम्बुलकर	अप्रैल 2005 से वेतन कटौती	रु 880.00
5. श्री जी.व्ही. मिश्रा	अप्रैल 2005 से वेतन कटौती	रु 1000.00
6. श्री शेख सरदार	अप्रैल 2005 से वेतन कटौती	रु 880.00
7. श्री एन.आर. वैद्य	अप्रैल 2005 से वेतन कटौती	रु 880.00
8. श्री एस.एन. अम्बोने	अप्रैल 2005 से वेतन कटौती	रु 880.00
9. श्री पांडुरंग माकडे	अप्रैल 2005 से वेतन कटौती	रु 1200.00
10. श्री जे.आर. कमाने	अप्रैल 2005 से वेतन कटौती	रु 880.00
11. श्री सुरेन्द्र चौहान	अप्रैल 2005 से वेतन कटौती	रु 1000.00
12. श्री एस.एन. आमदरे	अप्रैल 2005 से वेतन कटौती	रु 880.00
13. श्री बी.के. वर्मा	अप्रैल 2005 से वेतन कटौती	रु 1000.00
14. श्रीमति कल्पना भड्डके	अप्रैल 2005 से वेतन कटौती	रु 880.00
15. श्री भास्कर सोनटक्के	अप्रैल 2005 से वेतन कटौती	रु 880.00

श्रीराम झाड़े

महासचिव

उमरेड क्षेत्र

नई दिल्ली, 13 नवम्बर, 2013

का.आ. 2580.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 01/2010-11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं एल-22012/66/2009-आई आर (सी एम-II)]

बी.एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2580.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2010-11) of the

Cent. Govt. Indus. Tribunal-cum-Labour Court, NAGPUR as shown in the Annexure, in the industrial dispute between the management of Nagpur Area of Western Coalfields Limited, and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/66/2009-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/01/2010-11

Date: 21.10.2013.

Party No.1 : The Chief General Manager
WCL, Nagpur Area, Jaripatka,
Post: Kasturba Nagar,
Nagpur.

Versus

Party No.2 : The General Secretary,
Lal Zanda Coal Mines
Mazdoor Union (CITU),
C/o. Coal Estate, Civil Lines,
Nagpur.

AWARD

(Dated: 21st October, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman Shri Harun Rashid, for adjudication, as per letter **No.L-22012/66/2009-IR (CM-II) dated 25.03.2010**, with the following schedule:—

"Whether the action of the management of M/s. WCL in dismissing Shri Harun Rashid w.e.f. 02.02.2008 is legal and justified? If not, to what relief is the workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Harun Rashid, ("the workman" in short) filed the statement of claim and the management of WCL, ("party no.1" in short) filed the written statement.

The Case as projected by the workman in the statement of claim is that he was working in Western Coal Fields ("WCL" in short) and was posted in AB Incline colliery in the post of SDL operator and he possessed a clean and unblemished service record till the initiation of the disciplinary proceeding and a charge sheet was issued against him on 06.08.2005, alleging that he had submitted

three medical bills dated 06.06.2005, 06.06.2005 and 01.06.2005, amounting to Rs. 1001.45P, Rs. 804.50p and 939.17p respectively for reimbursement and on scrutiny, it was found that the reimbursement forms submitted by him were not registered with the hospital, prescriptions of medicines were not issued by any doctor of WCL, N.A. Certificate attached with the prescriptions were not issued by any pharmacist of Wani hospital and the signatures of the doctor on the back of the bills did not appear to be real and he stoutly denied the allegations and stated that the signatures appearing on the bills were not given by him and requested for proper examination of those signatures by a handwriting expert and he also categorically submitted that the said bills were not submitted by him for reimbursement and he had neither signed those bills nor had received any amount towards reimbursement and on the basis of the charge sheet, a departmental enquiry was initiated against him and the enquiry officer conducted the enquiry in a farcical manner and in utter violation of the principles of natural justice and he was not afforded a reasonable opportunity to defend himself in the enquiry and during the enquiry also, he sought for proper examination of the signatures by a handwriting expert, so as to enable him to prove his innocence, but the same was arbitrarily denied by the enquiry officer and the party no.1 failed to supply the copy of the enquiry report to him on completion of the enquiry, as a result of which, he was deprived of the opportunity, much less reasonable opportunity to defend himself effectively in the matter and without any evidence, the enquiry officer arbitrarily concluded that the bills were submitted by him and the enquiry officer totally failed to apply his judicious mind and to analyze the evidence in its proper perspective and mechanically drew his conclusion, holding him guilty of the misconduct alleged in the charge sheet and due to non supply of the enquiry report, he remained in dark about the reasoning and conclusions drawn by the enquiry officer and it is clear that on the basis of the enquiry report, the disciplinary authority issued the impugned order of dismissal dated 02.02.2008 against him, without affording any opportunity to rebut the findings of the enquiry officer.

It is further pleaded by the workman that the Disciplinary Authority as well as the Appellate Authority failed to appreciate the fact that the charges levelled against him were not proved in the enquiry and that no reasonable opportunity was afforded to him to prove his innocence and the order of his dismissal from services was passed mechanically without application of mind and in undue haste and colourable exercise of the employer's right and party no.1 equated his case with the cases of other employees, who had not only submitted false, medical bills for achieving undue monetary gains, but they have also admitted their involvement in the matter and the dismissal

order is wholly illegal, unfair and arbitrary and the same is grossly disproportionate to the quantum of charges framed against him.

The workman has also pleaded that he was thrown out of job without any fault on his part and it is not possible for him at this age to get employment elsewhere and he is not gainfully unemployed and he is facing financial hardship due to his illegal termination.

The workman has prayed to reinstate him in service with continuity, full back wages and consequential benefits.

3. The party no.1 in its written statement has pleaded *inter-alia* that the workman was working as a SDL operator and charge sheet dated 05.08.2005 was issued against him, for submission of false medical reimbursement bills and the workman submitted his reply to the charge sheet, but as the reply was found not to be satisfactory, departmental enquiry was initiated against him and all opportunities were given to the workman by the enquiry officer in the departmental enquiry and the workman attended the enquiry proceedings with his co-worker and he cross-examined the witnesses examined on behalf of the management and the workman failed to present any witness in his defence and as the workman admitted his signatures on the bills, the question of referring the bills for the opinion of the handwriting expert doesn't arise and second show cause notice alongwith the report of the enquiry officer was served on the workman and the workman submitted his reply to the second show cause notice and the workman in his show cause did not raise any objection that the enquiry was not fair and proper and he was not offered fair opportunity to defend his case and the appeal filed by him was based on the enquiry report, which clearly indicates that he had received the enquiry report and the charges were duly proved against the workman and specially on the basis of the admitted materials on record and the misconduct committed by the workman was very serious in nature and as such, the punishment of dismissal is not shockingly disproportionate.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken up as a preliminary issue for consideration and by order dated 10.09.2012, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

5. During the course of argument, it was submitted by the learned advocate for the workman that the workman had denied the charges levelled against him, specifically stating that he did not submit the medical bills dated 06.06.2005, 05.06.2005 and 01.06.2005 and the signatures appearing on the bills were not made by him and the

workman requested for examination of the said signatures by a handwriting expert, to prove his innocence and some outsiders played mischief in the matter to malign him and in the enquiry also, the workman sought for proper examination of the said signatures by a handwriting expert, but the same was denied by the enquiry officer arbitrarily and charges were framed against the workman on the basis of the preliminary report submitted by the Deputy CMO of Walni hospital and his evidence was very vital for the workman and 07.07.2006, the workman requested to summon the Dy. CMO for his interrogation, but the enquiry officer rejected his request and thereby denied a reasonable opportunity to the workman to defend himself and there by the entire proceeding leading to the termination of the workman is vitiated in law. It was further submitted that party no.1 failed to supply a copy of the enquiry report to the workman and thereby, the workman was deprived of the opportunity to defend himself effectively in the matter and was greatly prejudiced to prove his innocence and the findings of the enquiry officer that the bills were produced by the workman is without any evidence on the record of the enquiry and the enquiry officer failed to apply his judicious mind and mechanically drew his conclusions holding the workman guilty of the misconduct and the impugned dismissal of the workman on the basis of such untenable proceeding is wholly illegal, improper and unsustainable in law and the disciplinary authority as well as the appellate authority failed to appreciate the fact that the charges levelled against the workman not to have been proved and the order of dismissal was passed without due application of mind, with undue haste and colourable exercise of employer's right and party no.1 equated the case of the workman with the case of other employees, who had not only submitted false medical bills for getting undue monetary gains, but also, had admitted their involvement in the matter and the order of dismissal is grossly disproportionate to the charges framed against the workman and from the date of dismissal, the workman is unemployed and he is not gainfully employed and he is entitled for full back wages from the date of termination till the date of reinstatement and the workman is entitled for reinstatement in service with continuity and full back wages.

6. Per contra, it was submitted by the learned advocate for the party no. 1 that charge sheet under clauses 26.1 and 26.22 of the certified standing order of party no.1 was issued against the workman for commission of major misconduct and the workman submitted three false medical bills for reimbursement and the workman also forged the signatures of the authorities of party no. 1, for the purpose of illegally claiming reimbursement and *vide* order dated 10.09.2012, it has already been held by this Tribunal that the departmental enquiry conducted against the workman is legal, proper and in accordance with the principles of natural justice and the findings of the enquiry officer are based on

the evidence on the record of the enquiry and proper appreciations of the evidence and they are not perverse and the party no.1 has lost confidence on the workman and in cases like the present one, there is no place for generosity and misplaced sympathy on the part of the judicial forum and to interfere with the quantum of punishment and the punishment awarded against the workman is not shockingly disproportionate to the misconduct proved.

In support of such contentions, the learned advocate for the party no.1 placed reliance on the decisions reported in (2006) 2 SCC-255 (TNCS Corporation Ltd. Vs. K. Meerabai) and (2007) 9 SCC-755 (Pandiyan Roadways Corporation Ltd. Vs. N. Balakrishnan)

7. Before delving into the merit of the matter, I think it apposite to mention the principles enunciated by the Hon'ble Apex Court in the two decisions cited by the learned advocate for the party no.1 and so also the principles enunciated by the Hon'ble Apex Court in a string of decisions regarding the power of the Tribunal in the matter of interfering with the punishment imposed in departmental proceedings.

8. In the decision reported in (2006) 2 SCC-255 (Supra), the Hon'ble Apex Court have held that:—

"Labour Law-Departmental/Domestic enquiry-Penalty/Punishment -Scope of judicial review of — Sympathy or generosity, if a ground- Where the employee was found guilty of misappropriating the employer corporation's fund, held, the primary factor to be taken into consideration was the loss of confidence and not the amount of money misappropriated - Hence, notwithstanding that there was no such allegation against the employee in the past, held, the punishment from dismissal from service imposed by the employer could not be interfered with by the court on the ground of sympathy or generosity—In view of the position of trust occupied by the delinquent, further held, the matter required to be dealt with rather firmly and not leniently.

The enquiry officer's report in which the respondent has fully participated and the order of the disciplinary authority and the appellate authority show that the order passed by them was very detailed well considered and well reasoned verdict. It has been held in a catena of decisions that interference is not permissible unless the order passed by the quasi judicial authorities are clearly unreasonable or perverse or manifestly illegally or grossly unjust."

9. In the decision reported in (2007) 9 SCC-755 (Supra), the Hon'ble Court have held that:—

"Labour Law—Misconduct—Grave misconducts—Grave Misconducts Punishment to be imposed—Conduct when a "Grave Misconduct" —Held in cases of grave misconducts like misappropriation/ theft, dismissal—Further held, the words "Gravest act of factual matrix in each case—Misconduct—Misappropriation/ Defalcation."

10. It is also well settled by the Hon'ble Apex Court in a number of decisions that:—

"The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

So, now, the present case in hand is to be considered with the touch stone of the principles enunciated by the Hon'ble Apex Court as mentioned above.

11. So far the contentions raised by the learned advocate for the workman regarding rejection of the request of the workman for examination of the signatures on the three medical bills in question by a handwriting expert, by the enquiry officer and non-supply of enquiry report etc. have already been dealt with, while deciding the preliminary issue about the fairness of the departmental enquiry and as such, there is no scope for reconsideration of the contentions raised in that respect.

12. On perusal of the materials on record including the pleadings of the parties and taking into consideration the contentions raised by the learned advocates for the parties, it is found that the enquiry officer after analyzing the evidence on record of the enquiry in a rational manner has arrived at the findings and he has assigned reasons in support of his findings. It is also found that this is not a case of no evidence or that the findings arrived at by the enquiry officer are not as such, which can not be found by

a prudent man on the materials on record. Hence, the findings of the enquiry officer cannot be said to be perverse.

So far the proportionality of the punishment imposed against the workman is concerned, it is found that grave misconducts have been proved against the workman in a properly conducted departmental enquiry. Hence, the punishment of dismissal of the workman from services cannot be said to be shockingly disproportionate to the charges proved, calling for any interference. Hence, it is ordered:—

ORDER

The action of the management of M/s. WCL in dismissing Shri Harun Rashid w.e.f. 02.02.2008 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2581.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एन सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 90/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/46/2009-आई आर (सी-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2581.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/11) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of NCL Khadia Project, and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/46/2009-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE SRI RAMPARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

I.D. Nos. 90/11

Sri Dev Nath Yadav
C/o Surender Nath Singh,
Secretary, Koyla Shramik Sabha,
Branch Office B-49,

NCL Khadia Project,
Sonbhadra

And

The Chief General Manager,
NCL, Khadia Project,
Sonbhadra.

AWARD

1. Central Govt. MoL, New Delhi *vide* above reference No. L-22012/46/2009-IR (C-II) dated 30.09.2011 has referred the following dispute for adjudication to this tribunal—
2. Whether the demand of the Union that the date of birth of Sri Dev Nath Yadav, Chp. Operato, NCL Khadia District Sonbhadra, U.P. be corrected as 12.09.60 in official record of the NCL Khadia is just fair and legal? To what relief the workman is entitled to?
3. After receipt of the reference order as above several notices were issued by the tribunal to both the parties, but none has appeared from the side of the claimant nor there any statement of claim filed.
4. On the contrary the opposite party has put his appearance through his authorized representative and filed its power in the case.
5. It therefore, from the circumstances of the case appears that the Union or the workman is not interested in prosecuting its case. As such the tribunal is of the confirm opinion that it is a case in which neither there is any statement of claim nor the claimant is interested in prosecuting his case, therefore, the case is bound to be decided against the union and workman for want of pleadings and proof.
6. Accordingly it is held that the workman/union is not entitled for any relief pursuant to the present reference order.

RAM PARKASH, Presiding Officer

Date: 31.07.13

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2582.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 136/2003)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/285/2001-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2582.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 136/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Durgapur Open Cast Sub Area of WCL, and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/285/2001-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/136/2003

Date: 31.10.2013.

Party No. 1 : The Sub Area Manager,
Durgapur Open Cast Sub Area of WCL,
P.O. Durgapur, Dist. Chandrapur (MS)

Party No. 2 : Shri A. A. Kuresh, Secretary,
Koyla Shramik Sabha (HMS),
Br. Durgapur, Post-Durgapur,
Dist-Chandrapur (MS)

AWARD

(Dated: 31st October, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(a) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Durgapur Open Cast Sub Area of WCL and their workman, Shri A.N. Tonge, for adjudication, as per letter No. L-22012/285/2001-IR(CM-II) dated 23.04.2003, with the following schedule:—

"Whether the action of the management of M/s. Western Coal Fields Ltd. through Sub Area Manager, Durgapur Open Cast Colliery, Chandrapur in denying protection of pay at Rs. 131.08 per day while transferring the workman Shri A.N. Tonge to the post of EPGH Exe. Grade and fixing his pay at Rs. 82.70 P per day *vide* order dated 20/21.12.1998 is legal and justified? If not, to what relief the said workman is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri A.N. Tonge, ("the workman" in short), filed the statement of claim and the management of ("Party No. 1" in short) filed their written statement.

The case of the workman as presented in the statement of claim was that he was initially appointed as an apprentice driver w.e.f. 31.05.1984 and posted at Durgapur Open Cast Colliery, Chandrapur and he was regularized as General Mazdoor Category-I w.e.f. 28.10.1985 and due to his satisfactory performance as a Dumper Operator, he was also promoted as EPGH Cat-E and then to Dumper Operator Grade-'D', Grade-'C' and Grade 'B' and his promotion as Dumper Operator Grade-'B' was on 28.10.1989 and he was also upgraded to Grade-'A' in view of the provision in the National Coal Wages Agreement ("NCWA" in short) to the effect that, "workman, who continues to remain eight years in the same grade, would be upgraded to the next higher grade." It was further pleaded by the workman that unfortunately, he met with an accident and sustained head injury and due to epilepsy, he submitted a written request for excavation maintenance job and he had never given any written consent to accept of lower grade or lower wages and maintenance and operation grades are the same and due to his skill and knowledge of Dumper, he requested for dumper maintenance work, instead of dumper operation and his application was forwarded by the Supdt. of Mine for alternative job and on his application, he was allowed to work in maintenance job in the post of EPGH Category-'E' *vide* letter dated 20/21.12.1998 and he was posted four steps down from his then existing grade, as a result of which, he sustained a loss of Rs. 48.38 per day in his basic wages, besides loss on D.A. and other allowances and the benefit of pay protection was given by Party No. 1 to other employees, namely, Shri K.P. Trivedi, who was working as Operator Grade-'A' and was placed in Driver Category-V on his written request and pay protection was given to him *vide* letter No. 12489 dated 30.11.2000/01.12.2000 and Shri M.P. Ambekar was posted as Mechanist Grade-'D' from Diesel Mechanic Grade-'D', on his written request and he was also given pay protection *vide* letter No. 932 dated 06/07.08.2000 and circular No. 2676 dated 10/21.02.2000 was circulated by the Dy. Chief Personnel Manager, Chandrapur Area regarding giving of pay protection to the employees, but the said circular was completely ignored by the management of Durgapur Open Cast Colliery which considering his case and he was not given the benefit of the pay protection.

The workman had made prayer to answer the reference in affirmative and to grant him the relief of wage protection with arrear of salary.

3. Party No. 1 in the written statement has pleaded *inter-alia* that the workman was appointed as a General

Mazdoor in Cat-I on 01.06.1985 and he was promoted in operation cadre from category- 'E' to 'B' and to Category 'A' on 01.01.1998 by way of service link up gradation and on 27.10.1998, the workman gave a representation for change of cadre/job from operation to maintenance cadre, on account of injury sustained by him outside the course of employment, for which, authentic proof was not submitted by him and on the request of the workman and looking into his mental status, the workman was allowed to work in maintenance cadre by fixing his wages at mid stage of respective category on 21.12.1998 as per letter No. 3173 issued by Sub Area Manager, Durgapur Open Cast Sub Area and the other cases quoted by the workman are not at all identical in nature and as such, protection of wages of the workman does not arise in maintenance cadre, one must possess ITI with a specific Trade and skill at higher level for his placing in equal category and the workman was lacking in that regard and hence, experience required to attain such category in maintenance cadre and the workman studied only VIII standard having driving license and his promotion in maintenance cadre was not considered for want of less attendance as determined by Departmental Promotion Committee and the Dy. CPM is not authorized to issue such circular and more over the said circular is not relevant in this case and the case of the workman is not a case of demotion and the workman is not entitled to any relief.

4. It is to be mentioned here that even though the workman had filed his evidence on affidavit; he did not appear for his cross-examination. Lastly, on 26.08.2013, intimation was given by the advocate for the petitioner that the workman expired on 13.05.2013. It is also to be mentioned that even though sufficient time was given, the legal heirs of the deceased workman were not brought on record by way of substitution. No step of any kind was taken on behalf of the petitioner. So, the case was closed on 24.10.2013 and was posted for award.

5. It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and if no evidence is produced, the party involving the jurisdiction of the Court must fail. In this case, no evidence has been adduced from the side of the petitioner. Hence, the reference cannot be answered in favour of the petitioner. Hence, it is ordered:—

ORDER

The action of the management of M/s. Western Coal Fields Ltd. through Sub Area Manager, Durgapur Open Cast Colliery, Chandrapur in denying protection of pay at Rs. 131.08 per day while transferring the workman Shri A. N. Tonge to the post of EPGH Exe. Grade and fixing his pay at Rs. 82.70P per day *vide* order dated 20/21.12.1998 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2583.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 138/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/161/2002-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2583.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes and Award (Ref. No. 138/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Central Workshop Tadali of Western Coalfields Ltd. and their workman, received by the Central Government on 13/11/2013.

[No. L-22012/161/2002-IR (CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/138/2003

Party No. 1 : The General Manager,
Central Workshop,
Tadali of Western Coalfields
Ltd, PO-Tadali, Distt. Chandrapur. (MS)

Party No. 2 : Shri P.B. Waghmare, President,
Lal Zanda Coal Mines
Mazdoor Union (CITU)
Br. Central Workshop Tadali,
P.O.-Tadali, Distt. Chandrapur (MS).

AWARD

(Dated: 30th October, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Workshop, Tadali, Western Coalfields Limited and their workman, Shri Hemraj Bagde, for adjudication, as per letter No. L-22012/161/2002-IR (CM-II) dated 26.05.2003, with the following schedule:—

"Whether the action of the management of Central Workshop, Tadali of Western Coalfields Ltd. in denying promotion as Fitter Category-A to Shri Hemraj Bagde, Fitter *w.e.f.* 01.07.1999 is legal and justified? If not, to what relief is workman entitled?

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union Lal Zanda Coal Mines Mazdoor Union (CITU), ("the union" in short) filed the statement of claim on behalf of the workman, Shri Hemraj Bagde, ("the workman" in short) and the management of Western Coal fields Ltd. ("Party No. 1" in short) filed their written statement.

The case of the workman as presented by the union in the statement of claim is that the workman was appointed as a category-I Mazdoor *w.e.f.* 04.09.1985 and he was posted at Shivpuri Open Cast Mine in Pench Area and he was promoted on the recommendation of the departmental promotion committee as mechanical fitter in category-II *w.e.f.* 01.10.1986 and then as Excavation personnel fitter 'D' *w.e.f.* 12.02.1990 and he was transferred to Central Workshop, Tadali as Excavation personnel fitter *w.e.f.* 28.09.1992 and on the recommendation of the departmental promotion committee, he was again promoted to the post of E.P. Fitter, category-C by an order dated 28/30.12.1992 and he was granted notional seniority *w.e.f.* 01.07.1993 and he was again promoted to the post the fitter cat-B *w.e.f.* 01.07.1996 and the workman has a clean and unblemished service record and he has never been warned and no show cause notice has been issued against him and right from the day he has been posted in Central Workshop, Tadali in 1993, he has been performing the work of fitter independently, without any complaint from any quarters. It is further pleaded by the union on behalf of the workman that the workman, who belongs to SC community, was due for his promotion to the post of Fitter 'A' *w.e.f.* 01.07.1999 and at that time, the post of fitter category-A was also vacant, but party no. 1 held the DPC after a year and promoted persons junior to the workman and the workman was deprived of the same and as per the manpower budget of 2000-2001, there was a vacancy of fitter 'A' in reserved quota, against which the workman could have been promoted, but the case of the workman was not considered and although, there was no vacancy in 1999-2000, notional seniority *w.e.f.* 01.07.2000 and again *w.e.f.* 01.01.2001 came to be granted to four juniors to the workman, but the workman was arbitrarily not considered for the same, by showing hostile discrimination towards him and the DPC, which was constituted to consider the case of the workman and others flouted the procedural norms more than one ways and the Committee did not conduct the written test and took the decision to recommend only on the basis of the interview, which gave enough room for manipulation and in all the previous DPCs, the total marks fixed was 50, whereas, in the DPC in question, the total mark was 100

and no consideration was given to the length of service and past performance and the proceedings of the DPC was signed six months after the sitting of the DPC was held. The further case of the workman as presented by the union is that party No. 1 also flouted the reservation policy in its entirety and as per rules and settled law on the subject, the SC/ST employees shall be given by the DPC, one grading higher than the grading otherwise assignable to them on the basis of their record of service, but the same was not done in the case of the workman the provision of exchange backlog vacancy was also not implemented by party No. 1 and upto 01.07.1997, eight posts of excavation fitter-A grade were filled up, but no ST candidate was promoted during that period and one ST backlog vacancy was carried forward and as per the provision of exchange backlog vacancy, the unfilled reserved vacancy should have been carried forward for subsequent three years and inter changed between SC and ST or vice versa and had the party No. 1 taken due care to implement this exchange policy mooted by the Government of India, the workman was sure to have got the benefit and he would have been promoted to the post of Fitter A *w.e.f.* 01.07.1999 so that he could get the benefits of exchange policy.

The union has prayed to direct the party No. 1 to issue necessary orders granting promotion to the workman, in the post of Fitter Category-A *w.e.f.* 01.07.1999, which all consequential benefits.

3. The party No. 1, denying all the adverse allegations made in the statement of claim, has pleaded in the written statement *inter-alia* that as per its policy, as and when the workman was entitled for promotion, he was duly promoted and promotion is not a matter of right and it depends upon number of contingencies and certain reservations are provided for promotion in the interest of social justice, but such reservation does not empower an employee to claim promotion as of right as and when vacancy arises and DPC was conducted by it as and when occasion arose and promotion was given to the concerned employee, on the basis of his past performance, marks obtained in the DPC, seniority and also taking into consideration the post reserved for any particular class of employee and taking into consideration the aforesaid situations and as another candidate with better marks and performance and who was in the seniority list was there, the workman was denied promotion and the workman is claiming promotion against the reserved post and when the reserved post was vacant and the workman became entitled for the same, he was given promotion and the workman in the entire statement of claim has failed to demonstrate as to how he was entitled for the promotion as claimed by him and has merely made bald allegations that four workmen, who were juniors to him have been promoted and there is scope of manipulations, without demonstrating a single fact as to him there were manipulation and whether such action was challenged by him earlier and such bald allegations have

been made only with a view to prejudice the mind of the court and to mislead the court and the workman has failed to point out as to how he was entitled for promotion *w.e.f.* 01.07.1999 and the workman is not entitled for any relief.

4. In support of his case, the workman has examined himself as a witness, besides placing reliance on documentay evidence. The examination-in-chief of the workman is on affidavit. In the affidavit of the workman, the facts mentioned in the statement of claim have been reiterated. However, in his cross-examination, the workman has stated that he does not know the procedure for promotion to the post of fitter category-A and the affidavit filed by him was drafted and prepared by the advocate as per the instruction of the union.

No oral evidence has been adduced by the party No. 1.

5. Before delving into the merit of the case, it is to be mentioned that the workman has already been given promotion to grade-A *w.e.f.* 01.07.2001. Such fact of promotion has been pleaded by the workman in the statement of claim and so also in his evidence on affidavit.

6. During the course of argument, the learned advocates for the parties reiterated the stands taken in the statement of claim and written statement respectively.

7. It is claimed on behalf of the workman that he was entitled for promotion to grade-A *w.e.f.* 01.07.1999. However, the workman has not mentioned any reason or ground as to why he was entitled for such promotion *w.e.f.* 01.07.1999.

It is also clear from the materials on record that the promotion from Fitter grade-B to grade-A, the recommendation of the departmental promotion committee is necessary. It is also clear from the materials on record that the norms for promotion to grade-A from grade-B is merit-cum-seniority and some minimum criteria (educational qualification and minimum length of service in category-B) are required to be fulfilled for the zone of consideration. It is also found from record that the DPC held on 25.02.2001 considered the case of promotion for the workman from category-B to A alongwith eleven other employees and as there was reservation of only one post, out of the six vacant posts in category-A for SC candidate and another SC candidate Shri Manik Dupare was above the workman in the merit list prepared by the DPC, Shri Manik Dupare was recommended by the DPC for promotion to grade-A alongwith four general candidates and the rest one post which was reserved for ST candidate was kept vacant, as no ST candidate was there amongst the 12 employees, who were considered for promotion by the DPC, with recommendation to carry forward the said post. There is no material on record to show that there was any manipulation in the DPC held for consideration of the promotion of the workman and eleven others. It is also found from the materials on record that management of party No. 1 took steps to obtain the approval of the

competent authority for exchange of reservation of the post for ST category and after obtaining the necessary approval, gave promotion to the workman to category 'A' as per the policy of exchange of reservation, *w.e.f.* 01.07.2001.

From the discussions made above and the materials on record, it is found that the workman has failed to prove that he was entitled for promotion to fitter category-A from category-B, *w.e.f.* 01.07.1999. Hence, it is ordered:—

ORDER

The action of the management of Central Workshop, Tadali of Western Coalfields Ltd. in denying promotion as Fitter Category-A to Shri Hemraj Bagde, Fitter *w.e.f.* 01.07.1999 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2584.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 98/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/24/2005-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2584.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Ltd. and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/24/2005 - IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/98/2005

Party No. 1 : The General Manager,
Western Coalfields Ltd.
Pench Area, PO: Parasia,
Chhindwara.

V/s.

Party No. 2 : Shri Bhagatsingh Sakravar,
General Secretary, SKMS,
(AITUC), CRO Camp, Iklehara,
Chhindwara.

AWARD

(Dated: 24th October, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Ltd. and their workman, Shri Damrunath for adjudication, as per letter No. L-22012/24/2005-IR(CM-II) dated 28.11.2005, with the following schedule:—

"Whether the action of the management of Chief General Manager in terminating the services of Shri Damrunath, Tub Loader, Newton/Ganpati Colliery of Western Coalfields Ltd., PO. Pench Area, Distt. Chhindwara is legal and justified? If not, to what relief the workman is entitled?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Damrunath, ("the workman" in short) through his union, SKMS ("the union" in short) filed the statement of claim and the management of Western Coalfield Ltd. ("party No. 1" in short) filed their written statement.

The case of the workman as projected by the union in the statement of claim is that the workman while working as a Tub Loader in Ganpati Mine was served with charge sheet No. 96 dated 02.11.1996, for commission of misconduct under clause 26.22 of the Certified Standing Order and the workman submitted a detailed reply to the charge sheet, denying the charges levelled against him, on 17.11.1996 and the workman was ailing and though he was given surface work in Bhimodi Colliery, he was forced to discharge the work of Tub Loader, which he was not able to do and the workman was undergoing medical treatment for his illness, which can be found from letter No. 96/1699 dated 29.01.2006 of the management and the allegations made against him were quite false and due to illness, he was doing the work to the extent, it was possible for him and he did not commit any misconduct and his past service record was clean and unblemished and during the enquiry, he had produced all the relevant documents in support of his illness, before the Enquiry Officer and it was also intimated by the workman to the Enquiry Officer about his still undergoing medical treatment for the illness, but he was terminated from services by the Party No. 1 on the basis of illegal and unjust departmental enquiry and the

punishment imposed against him is not in accordance with the Certified Standing Order and the termination is illegal and is liable to be set aside. The union has prayed for the reinstatement of the workman in service with continuity and full back wages.

3. The Party No. 1 in their written statement have pleaded *inter-alia* that the workman was working as a loader in Newton Ganpati Mine of Pench Area and he was a habitual absentee and due to his absenteeism, he could not be able to attain the minimum work load as fixed by NCWA, so he was issued with the charge sheet dated 02.11.1996, under clause 26.22 of the Standing Order and as the reply submitted by the workman to the said charge sheet was found unsatisfactory, it was decided by them to conduct a departmental enquiry against the workman and accordingly, by order dated 02.12.1996. Shri N.S. Bisth was appointed as the Enquiry Officer and the Enquiry Officer conducted the enquiry legally, properly and following the principles of natural justice and the workman was given full opportunity to defend his case and the workman alongwith his co-worker participated in the enquiry throughout and after completion of the enquiry, the Enquiry Officer submitted his report, holding the workman guilty of the charges and the Competent Authority in the light of the charges proved in the departmental enquiry, *vide* office order dated 09.04.1997, terminated the services of the workman and the termination of the workman from services is not only just and proper, but also proportionate, by looking into the gravity of the misconduct proved against him and the workman is not entitled to any relief.

4. In the rejoinder, the facts mentioned in the statement of claim were reiterated by the union behalf of the workman.

5. As this is a case of termination of the workman from services, after holding of a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 14.05.2013, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

6. At the time of argument, it was submitted by the union representative that on perusal of the charge sheet, it can be found that virtually no charge has been levelled against the workman and the so called charge sheet was submitted against the workman and three others and though the workman had submitted his reply in detail with supporting documents, his reply was not considered by Party No. 1 and in the departmental enquiry, the workman produced all the relevant documents in regard to the medical treatment he had undergone for his illness and even though the workman was making repeated request to provide him light work, Party No. 1 did not provide him light duty and the findings of the enquiry officer are perverse and the order of punishment was passed against the workman without giving him the final opportunity of hearing and the punishment is shockingly disproportionate to the charge.

7. Per contra, it was submitted by the management representative that the workman was a habitual absentee and due to such absenteeism, the workman failed to attain the minimum workload as fixed in N.C.W.A. and he was served with the charge sheet dated 02.11.1996 and as the reply submitted by the workman was unsatisfactory, the departmental enquiry was conducted against him and by order dated 13.05.2013, this Tribunal has already held the enquiry to be legal, proper and in accordance with the principles of natural justice and the charge levelled against the workman was duly proved and the findings of the enquiry officer cannot be said to be perverse and as the misconduct against the workman amounts to gross misconduct, the punishment imposed against him is quite proportionate and there is no scope to interfere with the punishment.

In support of the contentions, reliance was placed on the decision reported in (1996) 5 SCC-474 (State of T.N. Vs. Thiru K.V. Perumal).

8. Before delving into the merit of the matter, I think it proper to mention the settled principles as enunciated by the Hon'ble Apex Court, regarding the power of a Tribunal in interfering with punishment awarded by the competent authority in departmental proceedings.

In a number of decisions, the Hon'ble Apex Court have held that:—

"The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is *malafide* is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

The Hon'ble Apex Court in the decision reported in (1996) 5 SSC 474 (Supra) have held that:

"Service Law-Departmental enquiry-Judicial review-scope-the question as to whether the charges were

established on the material available, held, beyond the scope of judicial review as the Administrative Tribunal is not an appellate Authority over the Departmental Authority."

So, keeping in view the principles enunciated by the Hon'ble Apex Court as mentioned above, now, the present case in hand is to be considered.

9. Perused the materials on record including the documents relating to the departmental enquiry held against the workman and taking into consideration the submission made by the representatives for the parties, it is found that this is not a case of no evidence. It is also found that the report of the enquiry officer is based on the evidence adduced during the enquiry and no extraneous material was taken in to consideration by the enquiry officer to arrive at the findings. The enquiry officer has assessed the evidence in a reasonable manner. It is also found that the documents filed by the workman in respect of his illness and treatment do not relate to the period of his non-attendance of duties as mentioned in the charge sheet. It is also found that the findings given by the enquiry officer are not as such, which could not have been arrived at by any reasonable person on the evidence available on the record of the enquiry. Hence, the findings of the enquiry officer can not be said to be perverse.

10. Commission of serious misconduct has been proved against the workman in a properly conducted departmental enquiry. The punishment of termination from services imposed against the workman cannot be said to be shockingly disproportionate to the charge proved against him. Hence, there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:—

ORDER

The action of the management of Chief General Manager in terminating the services of Shri Damrunath, Tub Loader, Newton/Ganpati Colliery of Western Coalfields Ltd. PO. Pench Area, Distt. Chhindwara is legal and justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2585.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 157/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/109/2002-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2585.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 157/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/109/2002-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/157/2002

Presiding Officer : Shri R.B. PATLE

The Secretary,
M.P. Koyla Mazdoor Sabha (HMS),
Sohagpur Branch,
PO Dhanpuri,
Shahdol

...Workman/Union

Versus

Sub Area Manager,
Dhanipur OCM of SECL,
PO Dhanpuri,
Distt. Shahdol (MP)

...Management

AWARD

Passed on this 4th day of October, 2013

1. As per letter dated 28-11-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/109/2002-IR(CM-II). The dispute under reference relates to:

"Whether the demand of Madhya Pradesh Koyla Mazdoo Sangh, Branch SECL Burhar Sub Area to the management in respect of workman Shri Ramesh Agrawal for promotion/regularization to the post of clerk *w.e.f.* the year 1990 is proper and justified? If yes, then for what relief the workman is entitled and since what date?"

2. After receiving reference, notices were issued to the parties. Ist party workman fixed statement of claim at page 3/1 to 3/2. Case of workman is that the land of his family was acquired by the 2nd party in 1986. Due to acquisition of land, he was entitled for employment under 2nd party on 13-2-89, he was appointed as underground Tub Loader on probation of 12 months. That his services are covered by Standing order as well as service rules and regulations applicable to employees of SECL. That as per NCWA-IV,

the person who is in employment as acquisition of his land is entitled to promotion after one year. Thus he was entitled for promotion from 13-2-90. That in 1991, Sub Area manager, Burhar Sub Area issued slip to engage him in clerical job by subsequent letter dated 23-3-93. The management of Burhar Mines deputed him to clerical nature of job to receive explosives and detonators. That other similarly placed workers were promoted. That workman is engaged in job of clerical nature. During past 12 years, he was denied promotion. His representations were also not considered. On such grounds, workman prays for regularization/promotion from 13-2-90.

3. IInd party filed exhaustive Written Statement at Page 5/1 to 5/10. Preliminary objection is raised by IInd party that workman was employed as General Mazdoor. He claims promotion to the post of clerk on the basis that he was working as clerk. The dispute is raised after 11 years is highly belated, the reference is not tenable. The promotion cannot be claimed as a matter of right. It is managerial function. It cover various circumstances as administrative requirement, availability of post etc.

4. That SECL is registered under Indian Company's Act. It is subsidiary for Coal India Ltd. The conditions of employment in Coal Industry are covered by various settlements NCWA. The Cadre Scheme formulated for Ministerial Staff, Clerical cadre. The details are given in Para-7 of the Written Statement that Clerk Grade III, educational Qualification is Matriculation, eligibility is 3 years service, Mode of promotion is Selection test. All other adverse contentions of workman are denied. That for purpose of granting promotion, DPC is constituted to consider eligibility of the candidates. As per recommendations of DPC, promotion is given. That headquarter of SECL has given instructions that time rated employees be directly or indirectly engaged in clerical job. Few underground workers are allowed to work on some days should be brought to the notice. IInd party further submits that as per circular No. 380 dated 1-10-90, decision of Functional Director were intimated. There should not be diversion of manpower to non-productive jobs and diversion in any circumstances by colliery, no diversion of manpower from underground to surface, no deployment of time rated personnel on monthly rated jobs in clerical or surface or office, no engagement of contractual labour in underground jobs other than stopping etc. It is further submitted that as per Hqr. order No. 2889 dated 10-4-93, the company was having surplus clerical staff hence no person should be placed in clerical cadre. Workman was never authorized to work as clerk Grade III. He was never paid wages of clerk claimed by him. As per cadre scheme applicable from promotion from post of clerk Grade-III, minimum eligibility of promotion is 3 years service with the company and educational qualification is higher secondary.

That as per cadre scheme and rules and regulations, workman is eligible for promotion. Claim of workman be rejected. Ist party filed rejoinder at Page 6/1 to 6/4 supporting his claim for promotion and the points raised in the statement of claim are reiterated by him.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------------------------|
| (i) Whether the demand of Madhya Pradesh Koyla Mazdoor Sangh, branch SECL Burhar Sub Area to the management in respect of workman Shri Ramesh Agrawal for promotion/regularization to the post of clerk <i>w.e.f.</i> the year 1990 is proper? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

6. Ist party workman is claiming promotion to the post of Clerk Grade-III contending that his land was acquired for the Coal Mines in 1986. As per NCWA-IV, he was entitled for promotion after completion of one year service. That he was working as clerk Grade III for 11 months. He should be regularized/promotion to said post.

7. Workman filed affidavit. However he failed to remain preset for his cross-examination. Therefore his evidence cannot be relied. Management's witness Surya Prakash Patnaik filed affidavit of evidence contending most of the statements in Written Statement. That services of employees working in SECL are covered by Bipartite Settlement NCWA-IV. Cadre Scheme provides eligibility criteria including selection test for the promotion to the post of Clerk Grade-III. The evidence of witness remained unchallenged as the workman failed to cross-examine him.

8. The documents produced by him are admitted by management. Exhibit M-1 to 17 produced by management. It do not relate to claim of workman that he is entitled to promotion to the clerk Grade-III. The proposal was submitted to the authorities as per Exhibit M-14 regarding claim of Ist party but however no action was taken. The documents M-15, 16, 17 shows names of employee working underground in Dhanpuri Mines. The name of workman is appearing in those documents.

9. Considering unchallenged evidence of workman, claim of workman is not substantiated by satisfactory evidence, therefore the demand of Union is not justified. For above reasons, I record my finding in Negative.

10. In the result, award is passed as under:—

- (1) Demand of Madhya Pradesh Koyla Mazdoor Sangh, Branch SECL Burhar Sub Area to the management in respect of workman Shri Ramesh Agrawal for promotion/regularization to the post of clerk w.e.f. the year 1990 is proper and legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2586.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 172/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/198/1998-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2586.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 172/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/198/1998-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/172/99

Presiding Officer : Shri R.B. PATLE

The President,
K.K.M.P. (HMS),
PO Junnardeo,

Distt. Chhindwara (MP)

....Workman/Union

Versus

The Manager,
Rawanwara Khas Colliery,
WCL, PO Dhingawani,
Distt. Chhindwara (MP)

....Management

AWARD

Passed on this 4th day of October, 2013

1. As per letter dated 22-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/198/98/IR (CM-II). The dispute under reference relates to:

"Whether the action of the management of Rawanwara Khas Colliery of Western Coalfields Ltd., Distt. Chhindwara in retiring Shri Fuljhar S/o Shri Anup, Tub Loader from 1-2-1992 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. After receiving reference, notices were issued to the parties, 1st party Union filed Statement of Claim at Page 3. Case of Union is that workman Fuljhar S/o Shri Anup was permanent workman of the IInd party. His date of birth was 10-3-53. Management has recorded his date of birth in Form B as 30-8-32. The workman was retired from service on 1-9-92 instead of 9-3-2013. That workman had challenged termination filing Writ Petition in Hon'ble High Court. Writ was disposed with observation that remedy under I.D. Act would be availed. Union prays that retirement of workman be set-aside and he be allowed on duty with back wages treating his date of birth as 10-3-53.

3. IInd party filed Written Statement. The claim of Union is opposed. It is submitted that date of birth of workman was recorded 40 years back in 1972. Workman was retired from service on 1-9-92 on completion of 60 years. The dispute referred after long lapse of time is not legal, its cognigence could not be taken. IInd party submits that workman was appointed in 1972 by Oriental Coal Co. Ltd. That as per rule, Form B register was maintained. The particulars about age, name etc., were entered. After nationalization of Coal Mines, Oriental Coal Company handed over said register to the IInd party. The entries in Form B were taken by information given by Ist party. He has affixed his thump mark on it. Claim of workman based on entries of date of birth in School Leaving Certificate is not legal. Writ Petition 1848/85 was decided on 24-8-87, claim of workman was rejected. IInd party denied that date of birth of workman claimed by workman that date of birth of workman recorded in Form B register if 10-3-53. Therefore applicant is not entitled to relief prayed by him. On such ground, IInd party prays for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the management of Rawanwara Khas Colliery of Western Coalfields Ltd., Distt. Chhindwara in retiring Shri Fuljhar S/o Shri Anup, Tub Loader from 1-2-1992 is legal?

In affirmative

- (ii) If not, what relief the workman is entitled to?" Relief prayed by workman is rejected.

REASONS

5. Though the Union is challenging retirement of workman Shri Fuljhar showing that his date of birth was 30-8-32, he was retired from 1-9-92 accepting his date of birth as 30-8-32 instead of his correct date of birth 10-3-53. The Union has not participated in the reference proceeding. He failed to adduce evidence to substantiate his claim under reference. The management filed affidavit of its witness Shri I.Y. Seshidhar, witness of the management has supported entire claim of IInd Party management that the date of birth of workman was 10-8-32 as per entries in leave register maintained at the time of entry in service. The evidence of management's witness remained unchallenged as workman or Union failed to cross-examine the management's witness. I do not find reason to discard his evidence. In absence of evidence about correct date of birth of Ist Party workman, I record my finding on Point No. 1 in Affirmative.

6. In the result, award is passed as under:—

- (1) Action of the management of Rawanwara Khas colliery of Western Coalfields Ltd., Distt. Chhindwara in retiring Shri Fuljhar S/o Shri Anup, Tub Loader from 1-2-1992 is legal.
- (2) Relief prayed by Union is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2587.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 87/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-22012/358/1992-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2587.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/93) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 13/11/2013.

[No. L-22012/358/1992-IR(C-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/87/93

Presiding Officer: SHRI R.B. PATLE

Chief General Secretary,
M.P.K.K.M.P. (HMS),
PO Junnardeo,
Distt. Chhindwara (MP)

.....Workman/Union

Versus

Manager,
Shivpuri Mines of WCL,
PO Sirgora via Parasias,
Distt. Chhindwara (MP)

.....Management

AWARD

Passed on this 10th day of October 2013

1. As per letter dater 3-3-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/358/92-IR-(C-II). The dispute under reference relates to:

"Whether the action of the management of Shivpuri Colliery of WCL PENCH Area, PO Shivpuri, Distt. Chhindwara in dismissing Shri Dinesh S/o Bisanlal, Tub Loader from services w.e.f. 25-5-90 is justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist Party submitted statement of claim at Page 5. Case of Ist Party Union is that workman Dinesh was served with a discharged notice dated 25-5-90 by the management of IInd Party. That the management had held exparte enquiry. Workman had produced medical certificate for resuming duties on 3-6-90. The Manager sent Medical Certificate to the Medical Officer of the colliery. The Medical Officer of the mine had given remark that certificate was not in order fit for duty. The Manager had ordered Senior Personnel Officer of mine to allow him on duty from 4-6-90. Accordingly he was allowed on duty. After passing

of some days, he was handed over a bunch of papers he was discharged from 25-5-90. That the management itself was not aware of their absence and discharging him from 25-5-90. On such grounds workman prays for reinstatement with back wages.

3. IInd Party management field Written statement at Page 6/1 to 6/6. IInd Party contended that case of workman is he was working as tub loader in Shivpuri colliery, Pench Area. Charge sheet was issued to him on 10-10-89 of unauthorized absence from 23-9-89. The workman did not care to submit his reply therefore it was decided to conduct Deptt. Enquiry. Shri S. K. Singh, Sr. Union Manager was appointed as Enquiry Officer. Shri A.K. Jha was appointed as Management Representative. The enquiry was fixed on 4-5-90. Workman remained absent. Again enquiry was adjourned to 5-5-90. Notice was issued to the workman. Meanwhile Shri P.N. Yadav was appointed as Management Representative in place of Shri A.K. Jha. As workman failed to participate in the Enquiry Proceeding, the enquiry proceeding was proceeded exparte. That workman remained unauthorisely absent. Particulars of his working days are given in Para-2. Workman had worked for 169 days in 1987, 126 days in 1988, 103 days in 1989, 36 days in 1990. That Attendance Register, bonus, leave registers were produced in enquiry proceedings. In spite of opportunity given to the workman, he remained absent, the enquiry was conducted properly following principles of natural justice. The Enquiry Officer submitted his report recording his findings that charges are proved. Other contentions of workman are denied. It is submitted that the employees of IInd Party are provided medical facilities including treatment in super speciality hospital *i.e.* hospital having 200 beds with modern equipment at Barkui. The certificates produced by workman about his illness were not genuine.

4. IInd Party submits that the contentions of workman are false. On such ground, it is prayed that relief prayed by workman be rejected.

5. Union filed rejoinder at Page 7. The contentions of the management are denied. That he had produced Medical Certificate about his illness.

6. The preliminary issue was decided as per order dated 17-5-2010, the enquiry found legal and proper. The parties were given opportunity to adduce evidence on other issues.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|----------------|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings? | In Affirmative |
|--|----------------|

- | | |
|---|-------------------------------------|
| (ii) Whether the punishment of dismissal from service imposed on workman is proper are legal? | In Affirmative |
| (iii) If so, to what relief the workman is entitled to? | Relief prayed by Union is rejected. |

REASONS

8. As stated above, enquiry conducted against workman is found legal and proper. Case was fixed for evidence on other issues. Union as well as IInd party has not adduced any evidence on other issues. The record of Enquiry Proceeding is produced. Page 9/6 of the Enquiry Proceedings shows that Ist Party workman was absent from duty from 23-9-89. The representative of management disclosed that Form "C" register and Tub Loader work load register were available about absence from duty of the workman. Copies of documents are produced in the Enquiry Proceedings. Said evidence remained unchallenged. Therefore finding of Enquiry Officer cannot be said without evidence or perverse. The evidence in Enquiry proceedings shows that workman was unauthorisely absent from duty. In his statement of claim, Ist Party workman has not stated that he was on duty during the relevant period. It was his case that he had submitted medical certificates and same were not considered. In view of the enquiry is found legal and valid, there is no point of recording fresh evidence on the point. For above reasons, I record my finding in Point No. 1 in Affirmative.

9. Point No. 2-Workman is dismissed from service for unauthorized absence. The copy of dismissal order is produced at Exhibit W-2. The charge was under Rule 17-1(B) for unauthorized absence for more than 10 days. The workman has not adduced evidence on other issues. No evidence is brought on record to point out how the punishment of dismissal is improper. In absence of such evidence, I do not find reason to interfere in the order of punishment of dismissal imposed by management. Therefore I record my finding in Point No. 2 in Affirmative.

10. In the result, award is passed as under:—

- (1) Action of the management of Shivpuri colliery of WCL Pench Area, PO Shivpuri, Distt Chhindwara in dismissing Shri Dinesh S/o Bisanlal, tub loader from services w.e.f. 25-5-90 is proper.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2588.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार वेस्टर्न कोलफील्ड्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 199/87) को प्रकाशित करती है, जो केंद्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-21012/1/1986-डी-III (बी)/डी-III (ए)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2588.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 199/87) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 13/11/2013.

[No. L-21012/1/1986-D III(B)/D-III(A)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/199/87

Presiding Officer: SHRI R.B. PATLE

The Secretary (Central),
Rashtriya Koyla Khadan Mazdoor Sangh (INTUC),
PO Damua,
Distt. Chhindwara (MP)Workman/Union

Versus

General Manager,
Western Coalfields Limited,
Kanhana Area, PO Dungaria,
Distt. Chhindwara (MP)Management

AWARD

Passed on this 16th day of July 2013

1. As per letter dated 1-10-87 by the Government of India, Ministry of Labour, New Delhi the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-21012/1/86-D-III(B)/D-III(A). The dispute under reference relates to:

"Whether the action of the management of Damua Colliery of W.C.Ltd, Kanhana Area in not regularizing Shri Suresh Prasad Tiwari in the post of TPC/loading clerk and consequently stopping him from work with effect from 31-8-85 is justified? If not, to what relief is the workmen concerned entitled and from which date?"

2. After receiving reference, notices were issued to the parties. The Secretary of R.K.K.M.S. filed Statement of claim at Page 2/1 to 2/5. The case of Ist Party workman is that he was appointed in year 1977 as General Mazdoor Cat-I. He was working satisfactorily. That workman was performing office work in Incline No. 23 of Damua Colliery. He was working as TPC Loading clerk from 1-3-1982. He was doing work continuously in Incline No. 22, 23. He was transferred to Incline No. 16, 17 because of his Union activities. The Manager of Incline No. 16, 17 ordered him to perform duty of Tub Munshi/Pit Munshi instead of TPC loading clerk. Workman joined duty of Tub Munshi and job of Munshi are categorized in Gr. III as per the Central Wage Board for Coal Mines Industry. It is further submitted that workman after his transfer in Incline No. 16, 17 was performing duty of TPC Loading clerk till 31-8-85. The Manager of colliery stopped said work of TPC Loading clerk. Thereafter the matter was taken before Conciliation Officer. During pendency of conciliation proceeding, he was again transferred. The order of transfer was cancelled at intervention of Dy. Chief Mining Engineer of Damua Colliery. That the workman was required to work underground mines. That the action of the management is illegal, it amount to violation of Section 33(1) of I.D. Act. It is prayed that management be directed that the workman be regularized on the post of TPC loading clerk from 31-3-1985.

3. Management of IInd Party filed preliminary objection at Page 3. It is submitted that the reference has been made neither by Secretary. RKKMS nor by office bearer of the said Union. The reference is not tenable. That Shri D.N. Tripathi appeared as representative of Union. He is not member of RKKMS (INTUC). He has not appeared on behalf of workman. That Union has not consent with the present Union as Mr. Tripathi is not member of MPKKMP Union.

4. Written statement is filed at Page 5/1 to 5/3. It is reiterated that reference speaks about stopping of workman Shri Suresh Prasad Tiwari w.e.f. 31-8-85. It was nobody's case before the appropriate authority concerned that Shri S.P. Tiwari was stopped from working. The reference could not be made in such manner. That Shri S.P. Tiwari was working as General Mazdoor in Damua Colliery. He was absent from duty from 31-8-85. For his absence, chargesheet was issued and disciplinary action was taken against him. The management never stopped him from working. He further submitted that at his request for giving alternate employment, not considered by the management. The dispute is referred at the instance of the Union. It is reiterated that Shri S.P. Tiwari was General Mazdoor. he doesnot possess qualification for TPC loading clerk. There is no vacancy of said post. There is no justification in demand of the Union. That promotion to the post of loading clerk are based on cadre scheme in Coal Industry qualifications and other criteria. On such grounds, IInd Party prays for rejection of the claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------------------------|
| (i) Whether the action of the management of Damua Colliery of W.C. Ltd. Kanhan Area in not regularizing Shri Suresh Prasad Tiwari in the post of TPC/loading clerk and consequently stopping him from work with effect from 31-8-85 is legal? | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

6. As per terms of reference, dispute between parties relates to denial of regularizing the workman Shri S.P. Tiwari. In his evidence, he has stated that he was working as TPC Loading clerk as per order of Asstt. Manager dated 1-3-82. After his transfer, he was continuing to work on same post. That head Assistant clerk and Sr. Personnel Officer Mr. Chandok had secured the register from Incline No. 22-23 of Damua Colliery. In his cross-examination, he says on document Exhibit W-3, Asstt. Manager has made endorsement to look for requirement and comment. From reading of his entire cross-examination, it is clear that General Mazdoor Category is promoted to the post of TPC loading clerk. He denied suggestions with respect to the enquiry proceedings. The evidence of Shri Motiram Khatakarkar is on record. That Shri S.P. Tiwari was working as Transport clerk for more than 240 days. In his cross-examination, he submits that since 1987, he was working as General Mazdoor. He claims ignorance whether Shri S.P. Tiwari was working underground. That Shri S.P. Tiwari had passed Higher Secondary. The entire evidence on record of workman and management's witness does not show that Ist Party workman Shri S.P. Tiwari was promoted to the post of TPC Loading clerk. What were the duties of General Mazdoor, the post he was appointed were not produced on record. His working as TPC Loading clerk for sometimes as per order of Asstt. Manager cannot be said promotion. He was not holding such post. Shri S.P. Tiwari was appointed as General Mazdoor. In absence of duties of General Mazdoor, work assigned to him as TPC loading clerk cannot be said legal. He cannot claim right to the post of TPC loading clerk therefore cannot be said in violation of Section 33(1) of I.D. Act. For above reasons, I record my finding in Point No. 1 in Affirmative and workman is not entitled to any relief.

7. In the result, award is passed as under:—

1. The action of the management of Damua Colliery of W.C. Ltd, Kanhan Area in not regularizing

Shri Suresh Prasad Tiwari in the post of TPC/loading clerk and consequently stopping him from work with effect from 31-8-85 is legal.

2. Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2589.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 133/87) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-21012/89/1986-डी० III (बी)]

बी०एम० पटनायक, डेस्क अधिकारी

New Delhi, 13th November, 2013

S.O. 2589.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes and Award (Ref. 133/87) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 13/11/2013.

[No.-L-21012/89/1986-D.III(B)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/133/87

Presiding Officer: SHRI R.B. PATLE

General Secretary,
MP Colliery workers Federation,
PO Jhagrakhand Colliery,
Distt. Surguja (MP)

....Workman/Union

Versus

Sub Area Manager,
Ramnagar Sub Area,
PO Ramnagar Colliery,
Distt. Shahdol (MP)

....Management

AWARD

Passed on this 11th day of September, 2013

1. As per letter dated 23-7-87 by Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of

I.D. Act, 1947 as per Notification No.L-21012/89/86-D.III(B). The dispute under reference relates to:

"Whether the dismissal of Shri Rameshwar Tiwari, Ex-Grade II clerk of Ramnagar colliery by the Manager, Ramnagar colliery of WCL (now SECL) Distt. Shahdol *vide* letter No. M/RAM/DISMISSAL/1145 dated 21/22-11-1980 is justified? If not, to what relief the workman entitled to?"

2. After receiving reference, notices were issued to the parties, Ist party workman filed statement of claim at Page 4/1 to 4/13. The case of Ist party workman is that he was working as Grade II clerk in Ramnagar colliery. He was served with chargesheet on 2-7-80. The Charges were under Clause 20(1)(e) and 20(1) (q) of certified standing orders for Ramnagar colliery. It was alleged in the chargesheet that around 2 AM on 2-7-80, when one B.N. Singh Under Manager, V.K.Khare, Asstt. Colliery Manager and others were returning by bus. The workman blocked road in front of his quarter of one Janeshwar Tiwari. It was also alleged that the workman has threatened and abused one Shri B.N. Singh and assaulted him physically. He was called upon to showcause within 48 hours. The chargesheet should not have been issued against him without affording any opportunity. That the workman was suspended arbitrarily. As the enquiry is held vitiated, I am not inclined to narrate details exhaustively the contentions of workman on the point of illegality of enquiry. Workman has narrated the alleged charges that he had around 12.30 PM, heard some hue and cry and screaming of somebody asking for proection. When he rushed to the house of Shri B. Choudhary, he found one Shri R.K. Lal, Jaswant Singh, B.M. Singh, V.K. Khare etc. were beating Janeshwar Tiwari mercilessly. The workman alongwith one Sitaram and Dubey also reached the spot and tried to save Janeshwar Tiwari from Physical assault. That the chargesheet against workman was manoeuvred with *malafied* intention to victimize. That the Enquiry officers R.K. Mehta, N.K. Prasad were appointed without any reasons they were shunted out on 26-7-80 and Shri J.K. Ghosh was appointed as Enquiry Officer. Workman had submitted repeated objections for his appointment. Those objections were not considered. As per letter dated 9-8-90, workman had requested for clarifications. Those clarifications were denied by him. That Enquiry Officer Mr. Ghosh conducted the enquiry sacrificing principles of natural justice, he was biased, action was detrimental to justice.

3. Workman had submitted letters from time to time. That his objections were not decided. He couldnot participate in the enquiry as the Enquiry Officer was biased. The enquiry was conducted exparte on reports of Enquiry Officer, he was dismissed from service. It is submitted that Enquiry Officer did not consider the evidence properly. The charge of drunkenness has been leveled against applicant whereas there were no allegation of his being

drunken on the date of incident. Enquiry Officer did not apply his mind. Findings of Enquiry Officer were not supported by evidence of independent witnesses. The statements of management's witnesses narrating the incident were contradictory. Ist party workman was dismissed from service on the basis of reports submitted by Enquiry Officer. The report of Enquiry Officer was not supplied to him. The competent authority blindly agreed with the findings of the Enquiry Officer. That the enquiry should have been conducted as per certified standing orders. The enquiry conducted against him was *malafide*. FIR lodged against workman was also motivated. On such ground, workman prays for his reinstatement with consequential benefits.

4. IInd party filed Written Statement at Page 3/1 to 3/4. IInd party denied all contentions of workman about the incident. That after appointment of Enquiry Officer, Shri J.K. Ghosh, Personal manager was appointed as Enquiry Officer. Enquiry was fixed on 7-8-80. Workman remained absent. Enquiry was adjourned to 14-8-80. Notice was given to the workman but he remained absent. Enquiry was adjourned to 29-8-80. Workman remained absent. Enquiry was proceeded exparte. Enquiry Officer recorded statements of management's witness Shir S.S. Srivastava, B.N.Sinha, J. Sinha, B. Choudhary and T. Subramanyam. That enquiry was conducted following the rules and principles of natural justice. Chargesheeted employee did not participate in the enquiry. It is further submitted that if enquiry is found not legal, IInd party be permitted to prove misconduct adducing evidence. IInd party prays for rejection of claim of the workman.

5. Ist party filed rejoinder at Page 5/1 to 5/7 reiterating contention in Statement of claim. Further it is submitted that the enquiry was not conducted following rules. He has not furnished information as per request.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------------------------|
| (i) Whether the dismissal of Shri Remeshwar Tiwari, Ex-Grade II clerk of Ramnagar colliery by the Manager, Ramnagar colliery of WCL (now SECL) Distt. Shahdol <i>vide</i> letter No. M/RAM/DISMISSAL/1145 dated 21/22-11-1980 is legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

7. The legality of enquiry is disputed by workman. My learned predecessor passed order dated 11-11-11 holding that enquiry conducted against Ist party workman Rameshwar Tiwari by management is not legal. Management was permitted to adduce evidence on remaining issues. The evidence of workman Tiwari was recorded. Management filed affidavit of witnesses J.K. Ghosh, K.K. Pathak, K.K. Mukherjee & P.N. Sinha. Considering the evidence on record, my learned predecessor passed award dated 3-12-88 holding that the charges against workman were not proved. The order of his termination was set-aside. Said award was challenged in W.P. No. 5089/99. The award passed by my learned predecessor was set aside and the order of dismissal of workman was upheld. The judgement in W.P. No. 5089/99 was challenged in Writ Appeal in 2006. Their Lordship observed that reference No. R/133/87 was clubbed with 139/87. The common evidence was recorded. That both reference should be decided separately. The order in Writ Appeal No. 225/2006 was challenged by filing review applicaiton. In review application, directions were given for deciding both the matter within particular time.

8. After remand of the matter, no further evidence is adduced by the parties. Management has submitted evidence on affidavit. The witnesses were cross-examined. The question is whether from the evidence of management's witnesses, charges against delinquent is proved. The evidence of management's witness J.K. Gandhi, E.O. is not relevant on the point. Witness B. Choudhary in his affidavit of evidence has narrated entire incident that he found Sitaram and Rameshwar Tiwari abusing in filthy languages saying "Maaro Sala Sardar Ko". He found Janeshwar Tiwari trying to assault Shri Jaswant Singh with steel chair by holding it in his hand. The turban of Shri Jaswant Singh and sweet dish tray were lying on the floor and Shri Jaswant Singh was trying to pick them up. He had pursued all of them and finally those persons left the place. In cross-examination of B. Choudhary, he says that both the parties had beaten Jaswant Singh. They have assaulted by hitting with steel chair. His evidence is not shattered in his cross-examination. Witness K.K. Pathak has also narrated the entire incident. That Rameshwar Tiwari was shouting "Maro sirdar ko" etc. Janeshwar Tiwari lifted the steel chair and hit Jaswant singh but attack failed. Others hold the chair and prevented from further assault. Janeshwar was stopped by those persons, other details of the incident are also given by the witness Shri K.K. Pathak, P.K. Mukherjee, and B.N. Sinha in their respective affidavit. Shri K.K. Pathak in his cross-examination re-affirmed his statement. He claimed ignorance what statement was given by Jaswant in Criminal court. That in his presence, B.N. Sinha did not beat Rameshwar. His evidence on the point that Janeshwar had assaulted Jaswant Singh is not shattered. Shri P.K. Mukherjee in his cross-examination has stated that beating incident has not occurred in his presence. The question

was also put about their evidence in criminal case. The judgement in criminal case is not produced on record. Those comments are made in the written notes of argument submitted by workman.

9. Counsel for management Mr. Shashi submits that the burden of proof in criminal case and domestic enquiry is different. In support of his argument, reliance is placed on ratio held in:

"Case of West Bokaro Colliery Versus Ram Pravesh Singh reported in 2009-I-LLT-220(SC). Their Lordship of the Apex Court held that standard of proof in Departmental Proceeding is different from that in criminal cases.

In case of Emco Transformers Ltd. *versus* S.P. Choubey and another in 1997-LLR-649. Their lordship held in Criminal proceedings, the life and liberty of person is at stake whereas in labour cases, the Labour court has to examine and ascertain as to whether the contract of employment between the employer and employee be maintained intact even against the wishes of the parties. Thus the Labour Court is entitled to do, if there is total lack of *bonafides* or a gross case of victimization or a situation where a totally innocent person has been dismissed from service leading to an interference of victimization."

10. The evidence discussed above is not shattered about occurrence of the incident. I donot find the findings of Enquiry Officer suffers from any perversity. The evidence is sufficient to hold the charges against workman are proved. Incident had occurred within the colliery establishment out of the discussion about repairs of the quarters and as such relates to the affairs of the IInd Party SECL. For above reasons, I donot find reasons to interfere in the findings of the Enquiry Officer. The action of the IInd party in terminating services of workman is legal. Accordingly I record my finding in Point No. 1.

11. Point No.2—In view of my finding in Point No. 1, workman is not entitled to any relief. Interference on order of termination of Shri Rameshwar Tiwari is not justified.

12. In the result, award is passed as under:—

- (1) The dismissal of Shri Rameshwar Tiwari, Ex-Grade II clerk of Ramnagar colliery by the Manager, Ramnagar colliery of WCL (now SECL) Distt. Shahdol *vide* letter No. M/RAM/DISMISSAL/1145 dated 21/22-11-1980 is legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2590.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 139/87) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं एल-21012/5/1987-डी. III (बी)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2590.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 139/87) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 13/11/2013.

[No. L-21012/5/1987-D. III(B)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/139/87

PRESIDING OFFICER: SHRI R.B. PATLE

General Secretary,
N.P.C.W.F., Hasdeo Area,
PO South Jhagrakhand Colliery,
Distt. Surguja (MP)

Workman/Union

Versus

Sub Area Manager,
Ramnagar Sub Area of SECL,
PO Ramnagar Colliery,
Distt. Shahdol

Management

AWARD

Passed on this 11th day of September, 2013

As per letter dated 31-7-87 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-21012/5/87-D. III(B). The dispute under reference relates to:

"Whether the action of the management in dismissing the services of Shri Janeshwar Tiwari, Ex-Grade I Clerk of Jhimar colliery by the Manager, Jhimar colliery of WCL (now SECL) Distt. Shahdol *vide* his letter No. M/JHIMAR/DISMISSAL/295 dated 20/30-9-80 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed his statement of claim at Page 3/1 to 3/13. The case of Ist party workman is that he was permanent employee of Jhimar Colliery, Hasdeo Area. There are no certified standing orders for controlling

services of the employees. That Jhimar colliery covered by Model Standing Orders. Chargesheet was issued to him on 3-7-80. The allegation was that workman unauthorisely enetered in house of Shri B. Choudhary, Colliery Manager and abused one Jaswant Singh who was standing with others. Charges were framed under Certified Standing Orders Clause 20(1)(e) and 20(1)(q). He had replied to the showcause notice contending that the allegation were concocted, charges were baseless. He further submits that on 2-7-80 he was invited in a party organised by one Jaswant Singh on his promotion to the higher post. The invitation card was given to him by Jaswant Singh personally and he was requested to attend the party. The party was organized at residence of Shri B. Choudhary. That invitees including General Manager Shri B.M. Sinha, Under Manager V.K. Khare, Asstt. Colliery Manager were enjoying drinks. When he was talking to General Manager and complaining of negligence on part of the Civil Department for maintenance of his quarter, Jaswant Singh and other interfered in the talk and felt offended hearing the conversation with the General Manager. He has narrated about the incident occurred. FIR was lodged to police station Ramnagar on 3-7-80. That Enquiry officers R.K. Mehta, N.K. Prasad were changed, J.K. Ghosh Personnel Manager, was deliberately appointed as Enquiry officer. He had repeatedly submitted representation for his appointment. His representations dated 28-7-80, 31-7-80 were not considered. The enquiry was fixed on 1-8-80. Despite of his subsequent representations, Enquiry Officer was not changed. That enquiry was proceeded exparte. He was dismissed from service as per order dated 14-9-86.

3. Workman submits that enquiry conducted against him was not fair and proper. My predecessor has held enquiry illegal as per order dated 11-11-91. Said order was not challenged and received finality. The parties were given opportunity to adduce evidence on remaining issues. Therefore the detailed discussion of the pleadings of workman about legality of enquiry is avoided for sake of gravity. Ist party workman has pleaded. It was obligatory for management to supply copy of Enquiry proceedings. He was not supplied copies of Enquiry proceedings. Enquiry Officer not considered his objections. It resulted in miscarriage of justice. The enquiry was conducted arbitrarily. The charge of drunkenness, fighting etc. cannot be sustained under Clause 17 of the Model Standing Orders. So called charges donot fall under Section (e) of Model Standing Orders. On such grounds, Ist party workman be reinstated with back wages.

4. IInd party management filed Written Statement at Page 4/1 to 4/3. IInd party submits that on 2-6-80, workman unauthorisely entered house of Choudhary, he abused Jaswant Singh and committed certain misconduct. Chargesheet was issued to him on 3-7-80. The reply given was not satisfactory. Enquiry Officer was appointed. Thereafter Shri N.K. Prasad was appointed as Enquiry

Officer. As Mr. Prasad proceeded on long leave, Shri J.K. Ghosh was appointed as Enquiry Officer. Enquiry was fixed on 1-8-80, 6-8-80, 21-8-80, 30-8-80. The workman did not appear on those dates. The enquiry was proceeded further. The statements of management's witness Jaswant Singh, B.N. Sinha, P.K. Mukherjee, K.K. Pathak and P.K. Chatterjee were recorded. The Enquiry Officer submitted his report on 30-9-80, misconduct against workman was proved. The enquiry was conducted properly giving opportunity to defend the workman. The punishment of dismissal is given. On such ground, IInd party submits that workman is not entitled to relief prayed by him.

5. Management had further filed rejoinder at Page 5/1 to 5/4 denying material contention of workman. Chargesheet was issued to workman.

6. As stated above my learned predecessor held enquiry conducted against workman was illegal. Management was given opportunity to prove misconduct by adducing evidence. Following points arise for my consideration and determination. My findings are recorded against each of them for reasons given below—

- | | |
|---|---------------------------------------|
| (i) Whether the action of the management in dismissing the services of Shri Janeshwar Tiwari, Ex-Grade I Clerk of Jhimar colliery by the Manager, Jhimar colliery of WCL (now SECL) Distt. Shahdol <i>vide</i> his letter No. M/JHIMAR/DISMISSAL/295 dated 20/30-9-80 is legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

7. Before dealing with the evidence of the witnesses of the management, it would be appropriate to deal with certain aspects of the litigation. That after parties adduced evidence in respect of remaining charges, award was passed by my learned predecessor on 4-12-88 held that the charges against workman was not proved. The order of punishment was set-aside. The order was challenged by management before Hon'ble High Court in W.P. No. 5090/99. The award was set-aside by Hon'ble High Court as per judgment dated 4-4-06. The order of punishment of dismissal was upheld. The order in Writ Petition was challenged in Writ Appeal No. 286/2006. Their Lordship observing that the cases were clubbed with R/133/87 for evidence in the year 1995. Both the cases be decided separately. Review Petition 460/09 was filed. The review application was disposed off with the direction to decide the matter within specific time. After remand of the matter, parties have not adduced further

evidence. Notes of arguments are submitted. The question arises whether the charges against workman are proved from evidence in Enquiry proceedings. The evidence of Shri J.K. Ghosh was recorded till 27-11-90 on the point of legality of Enquiry Proceedings as the order holding enquiry illegal has received finality, his evidence is not relevant on the point.

8. The management filed affidavits of evidence of Shri P.K. Chatterjee, Medical Suptd., Shri G.N. Sinha, Sr. Under Manager, Shri R.C. Yadav, Personnel Manager, T.S. Subbaratnam Addnl. Chief Engineer, Jaswant Singh, Suptd. Engineer, P.K. Mukherjee, Suptd. of Mines. All those witnesses in their affidavit of evidence have stated that on 2-7-80, they have attended party given by Shri Jaswant. Around 12.30 AM, he was not present at that time of beating incident of Shri B.N. Sinha. He had not seen the beating incident. Shri Ramesh had come with lathi for beating. On his intervention Rameshwar Tiwari returned.

9. Shri B.N. Sinha in his affidavit of evidence has stated that he saw Jaswant approaching he Varandan. He was followed by Shri Rameshwar Tiwari and Sitaram Yadav at some distance. Shri Janeshwar Tiwari approached Shri Jaswant Singh shouting "Sala Sardar Yaha Party Manata Hai etc. and he slapped Shri Jashwant Singh on his face. Again he slapped as a result of which the tray of sweets and his turban were thrown on the floor. While Shri Jaswant Singh was picking up his turban, Shri Janeshwar Tiwari lifted a steel folding chair and tried to hit on the head of Shri Singh. He has narrated the details of the incident. In his cross-examination, Shri B.N. Sinha says nobody was drunk, he had left party around 12.39 hours. Police had recorded his statement. He claims ignorance about the judgment by Criminal Court. False statement was given by Yashwant Singh in Court. He claims ignorance whether Janeshwar Tiwari was acquitted by Sessions Court. When Rameshwar Tiwari was beating him, wooden stick was in his hand. At that time Chatterjee was not present. Mr. P.K. Mukherjee was present. Whether party was organized in Bunglow of Jashwant Singh was by side. After party was finished, they left for their Bunglow. Cross-examination of Shri G.N. Sinha does not shatter his evidence about the incident. The evidence of witness T.S. Subbaratnam on affidavit shows Janeshwar, Rameshwar and Sitaram reached there shouting in abusive language. Shri Janeshwar slapped Shri Jashwant Singh, due to slap, his turban fell down on the ground. Other details of incident and abuses are narrated in his affidavit of evidence. In his cross-examination, T.S. Subbaratnam says that he had seen both beating Jashwant Singh. He claims ignorance about judgment of Session Court. He denied suggestion that he was giving evidence at the instance of management under pressure. The evidence of T.S. Subbaratnam about incident is not shattered. Jashwant Singh has also supported in his evidence of affidavit about the incident, the details are given in his evidence. In his cross-examination he says

that he had given statement before judicial Magistrate Shahdol. However he denies that he had given statement that Rameshwar and Janeshwar had beaten him. He claims ignorance about judgment by Session Court. The copy of judgment of Judicial Magistrate Shahdol, Sessions Court, Shahdol are not produced on record. The evidence of Jaswant Singh is not shattered in cross-examination about the incident narrated by him. Shri P.K. Mukherjee also supported in his affidavit but he was not cross-examined.

10. Learned counsel for Ist party produced notes of argument as emphasised on the contradictory statements made by witness B.N. Sinha and Jaswant Singh. That the workman was acquitted. In reply to above, learned counsel for IInd party submits that the burden of proof in criminal case and domestic enquiry is different. In support of his argument, reliance is placed on ratio held in:—

"Case of West Bokaro Colliery *Versus* Ram Pravech Singh reported in 2009-I-LLT-220(SC). Their Lordship of the Apex Court held that standard of proof in Departmental Proceeding is different from that in criminal cases."

In case of Emco Transformers Ltd. *versus* S.P. Choubey and another in 1997-LLR-649. Their lordship held in Criminal proceedings, the life and liberty of person is at stake whereas in Labour cases, the Labour Court has to examine and ascertain as to whether the contract of employment between the employer and employee be maintained intact even against the wishes of the parties. Thus the Labour Court is entitled to do, if there is total lack of bonafids or a gross case of victimization or a situation where a totally innocent person has been dismissed from service leading to an interference of victimization."

11. The evidence discussed above is not shattered about occurrence of the incident. I do not find the findings of Enquiry Officer suffers from perversity. The evidence is sufficient to hold the charges against workman are proved. Incident had occurred within the colliery establishment out of the discussion about repairs of the quarters and as such relates to the affairs of the IInd party SECL. For above reasons, I do not find reasons to interfere in the findings of the Enquiry Officer. The action of the IInd party in terminating services of workman is legal. Accordingly I record my finding in Point No. 1.

12. **Point No. 2**—In view of my finding in Point No. 1, workman is not entitled to any relief. Interference on order of termination of Shri Janeshwar Tiwari is not justified.

13. In the result, award is passed as under:—

- (1) The dismissal of services of Shri Janeshwar Tiwari, Ex-Grade-I Clerk of Jhimar Colliery by the Manager, Jhimar Colliery of WCL (now SECL) Distt. Shahdol *vide* his Letter No. M/JHIMAR/DISMISSAL/295 dated 20/30-9-80 is legal.

(2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2013

का०आ० 2591.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 105/2005, 106/2005 & 107/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/08/2013 को प्राप्त हुआ था।

[सं० एल-20012/90/2005-IR(CM-I),

सं० एल-20012/91/2005-IR(CM-I),

सं० एल-20012/92/2005-IR(CM-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 19th November, 2013

S.O. 2591.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 105/2005, 106/2005 & 107/2005) of the Cent.Govt. Indus. Tribunal-cum-Labour Court, No.2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Sijua Area of BCCL, and their workmen, received by the Central Government on 21/08/2013.

[No.L-20012/90/2005-IR(CM-I),

No.L-20012/91/2005-IR(CM-I),

No.L-20012/92/2005-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, DHANBAD

PRESENT:

SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

REFERENCE No. 105 of 2005

(With Ref. No. 106/2005, Ref. No. 107/2005)

PARTIES:

Janta Mazdoor Union, Jharua

Vs.

Management of General Manager, Sijua Area of
M/s B.C.C.L

APPEARANCES:

On behalf of the : Mr R.N. Ganguli, Ld. Adv.
Workman

On behalf of the : Mr. D.K. Verma Ld. Advocate
Management

State: Jharkhand Industry: Coal

Dated, Dhanbad, the 3rd July, 2013.

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Sec. 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication: *vide* their Order No. L-20012/90/2005-IR (C-1) dated 6/12/2005, L-20012/91/2005-IR(C-1) dt. 6/12/2005 and L-20012/92/2005-IR(C-1) dt. 9/12/2005.

SCHEDULE

"Whether the demand of the Janta Mazdoor Sangh from the management BCCL Sijua Area that Sri Rati Mahato U/G Loader be regularized as U/G Trammer is justified? If so, to what relief is the workman entitled and from what date."

Neither the Representative of the petitioner Union nor any of the workmen S/Shri Rati Mahato, Rajendra Bhar and Sikandar Ravidas, all U/G M/Loader appeared for the Union nor any workmen witness produced for the evidence, despite several Regd notices. Mr. D.K. Verma, the Learned Advocate for the Opp. /Management present.

On perusal of the case record, it is evident from it that the case have been pending for the evidence of the workmen since 20.12.2010, for which the four Regd. Notices. dt. 24.11.2011, 27.3.2012 and 28.12.2012 were issued to the vice President of the petitioner Union on his address noted in the Reference itself, yet the Union Representative or any of the three workmen did not respond to the Regd. Notices. From such conducts of the Union Representative/ Workmen, it appears that they are disinterested or quite unwilling to proceed with their cases concerned since the Ref. Nos. 106 and 107/2005 already amalgamated as per the Order B.No. 23 dated 27.8.2012 for hearing. The presence Reference as the latter two References related to an Industries Dispute for regularization of the workmen concerned as U/G Trammer.

Under these circumstances, the Reference along with the afore said Ref. No. 106/2005 and 107/2005 is closed and Accordingly, It may be passed an order of "No Industrial Dispute" existent now. It would be binding and effective in the aforesaid amalgamated References as well.

KISHORI RAM, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2013

का०आ० 2592.—औद्योगिक विवाद अधिनियम, 1947 1947 की 14 कि धारा 17 के अनुसरण में केन्द्रीय सरकार सी पी डब्ल्यू डी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या 2, नई दिल्ली के पंचाट (संदर्भ संख्या 1/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/11/2013 को प्राप्त हुआ था।

[सं० एल-42012/51/2001-आई०आर० (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 13th November, 2013

S.O. 2592.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No.2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Dehradun Central Division-II CPWD, and their workmen, received by the Central Government on 13/11/2013.

[No. L-42012/51/2001-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
DELHI**

Present: Shri Harbansh Kumar Saxena

ID. NO. 1/2002

Poornanand and Others

Vs.

The Executive Engineer,
Dehradun Central Division-II
CPWD, 20, Subhash Road,
Dehradun-2428001

EXPARTE AWARD

Estate Officer, who happened to be the Executive Engineer, Dehradun Central Division No. 1, CPWD, Dehradun, was enjoined with powers to make allotment of government accommodation to the employees of Central Public Works Department (in short the management). Work charged employees were discriminated by the Estate Officer in the matter of allotment of general pool quarters, claimed All India Central PWD (MRK) Karmchari Sangthan (in short the Union). Union made a demand to stop discrimination in allotment of government pool accommodation. When things did not move to satisfaction of the Union, it gave a notice for peaceful lunch hour demonstration on 09.02.1999 at Divisional Office of the management at Dehradun. The

Director General (Works), who happened to be the Head of Department, directed all concerned *vide* letter dated 09.09.1998 not to hold any meeting with un-recognized body/organization. As per the management, the Union was not a recognized trade union which fact was intimated by the Director General (Works) to the employees, through communication dated 03.09.1998. Despite the communication, the Union held demonstration during lunch hours i.e. from 1.00 P.M. to 2.00 P.M. on 09.02.1999. The employees, who participated in the demonstration, were not paid one day wages for that day. It led the Union to raise a demand for release of one day's wages of the employees, who participated in demonstration. When the demand was not conceded to, an industrial dispute was raised by the Union before the Conciliation Officer. Since the management contested the claim, conciliation proceedings ended into a failure. On consideration of failure report so submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, *vide* Order No. L-42012/51/2001-IR (CM-II), New Delhi dated 24.12.2001 with following terms:—

"whether the action of Executive Engineer CPWD Dehradun, Central Division-II, 20 Subhash Road, Dehradun in deducting half day wages of Sh. Poornanand, V. Mali & Others (List enclosed) for peaceful demonstration on 09.02.99 is legal and justified? If not, to what relief they are entitled to?"

2. Claim Statement was filed on behalf of 14 employees pleading therein that previously they were members of the Union but now they have joined CPWD Mazdoor Union. Then Branch Secretary of the Union gave a call for lunch hour demonstration on 09.02.1999. They participated in that demonstration from 1.00 p.m. to 2.00 p.m. and thereafter performed their duties from 2.00 P.M. till 5.00 p.m. The management arbitrarily punished them and deducted their one day wages for that day. The Branch Secretary of the Union was charge-sheeted for the demonstration, but exonerated of the charges by the Enquiry Officer. However, the claimants were penalized by way of deduction of their wages. Claimants assert that amount of wages deducted with their respective names and designation has been detailed below:—

Sl. No.	Name of Workman	Designation	Amount Deducted
1.	Sh. Poornaand	V. Mali	Rs. 88.00
2.	Sh. Kanti Swaroop	V. Mali	Rs. 77.00
3.	Sh. Daya Shanker	Bullock Man	Rs. 69.00
4.	Sh. Shri Ram	Mali	Rs. 69.00
5.	Sh. Jhulena Prasad	Mali	Rs. 69.00
6.	Sh. Shayam Lal	Mali	Rs. 69.00
7.	Sh. Suresh Chand	Mali	Rs. 69.00

Sl. No.	Name of Workman	Designation	Amount Deducted
8.	Sh. Ranjor Singh	Mali	Rs. 67.00
9.	Sh. Dhram Raj	V. Mali	Rs. 77.00
10.	Sh. Ashok Kumar	V. Mali	Rs. 77.00
11.	Sh. Hari Prasad		Rs. 55.00
12.	Sh. Peshupati		Rs. 50.00
13.	Sh. Mukti		Rs. 50.00
14.	Sh. Rajesh	Mali	Rs. 69.00

It has been claimed that deduction of the amounts referred above, was illegal. The management may be directed to refund the wages, deducted arbitrarily, plead the claimants.

3. The management demurred the claim pleading that there is no legal or statutory right to go on strike. Apex Court has ruled in T.K. Rangarajan [2003(6) SCC 581] that strike is not a fundamental right. The Union was not a recognized trade union and its activities were illegal and unjustified. *Vide* communication dated 3rd September, 1998, the Director General (Works) had informed all concerned that the union was not a recognized trade union. Communication dated 09.09.1998 was issued to impress upon them not to hold any meeting with an un-recognized body/organization. As per proviso to FR-17 (a) (i) a government servant, who is absent from duty without any authority shall not be entitled to pay and allowances during the period of absence. Strike, in which the claimants participated, was illegal. Their demonstration was not peaceful. Rather they involved in hooliganism, shouting slogans and passing bad remarks against their officers. In view of the principles of 'No work, No pay' they were not entitled to wages for the period of demonstration/strike. The claimants participated in an illegal strike and remained absent from their duties without any lawful authority. They resorted to strike during working hours. The incident was reported in press which fact corroborate that the claimants resorted to demonstration during working hours. Claimants are not entitled to wages for one day. Their claim is liable to be dismissed, pleads the management.

4. Shri Suresh Chand entered the witness box to unfold facts on behalf of the claimants. No other witness was examined by the either side of the parties.

5. Shri B.K. Prasad, authorized representative, advanced *exparte* arguments on behalf of the claimants as case proceeded *exparte* against management. I perused the pleadings and evidence on record carefully. My findings on issues involved in the controversy are as follows:—

6. Shri Suresh Chand deposed that on 09.02.1999, 14 Employees were raising demand for allotment of residential accommodation for work charged employees. They

demonstrated on 09.02.1991 from 1.00 p.m. to 2.00 p.m. After 2.00 p.m. they reported back to their duties. On account of demonstration, the management become annoyed and one day wages of participants in demonstration was deducted. No opportunity was given to the explain facts, prior to deduction of their one day wages.

7. When facts unfolded by Sh. Suresh Chand, it came to light that the claimants were reeling under a feeling that they were being discriminated by the Estate Officer in the matter of allotment of residential accommodation. They raised their demand through the Union but the management adopted a non co-operative attitude. As such, the claimants, under the banner of Union decided to demonstrate during lunch hours before the Divisional Office, Dehradun. They gathered there and demonstrated. As per facts unfolded by Sh. Suresh Chand, their demonstration was from 1.00 p.m. to 2.00 p.m. and in post lunch session they performed duties. Sh. N.K. Bansal could not dispel these facts, since he was not posted at Dehradun on the day of incident.

8. Strike is a recognized weapon of workmen to be resorted by them for asserting their bargaining power and for backing of their demands upon unwilling employer. It is to be used as a last resort when all their avenues of settlement of industrial dispute, as provided in statutory machinery, have proved futile. Strikes or lockout which are in contravention of the provision of sections 22 and 23 of the Industrial Disputes Act 1947 (in short the Act), have been declared illegal. Right to go on strike, however, arises from "principles of natural justice as well as social justice". Workmen have after a long struggle succeeded in establishing that in proper cases weapon of strike is used as their economic power, to bring the employer to see and meet their view point, over the dispute between them. It is as a legitimate weapon of workmen for the purpose of ventilating their demands. Whether strike is justified or not should not be judged by the results of adjudication of demands. It might in certain cases be resorted to register protest and it cannot be said to be unjustified unless the reasons for it are absolutely perverse and unsustainable.

9. It has been projected by Shri N.K. Bansal that *vide* communication No. 221 EC IX dated 3.09.1998 Director General (Works) initiated all the employees that the Union is not a recognized trade union. He further projects that *vide* letter No. 6/3/98-ECX dated 10.9.1998, the Director General (Works) commanded all concerned not to hold any meeting with an un-recognized body/organization. Through these documents, the management wants to project that the Head of the Department had cautioned the claimants not to hold any meeting with the Union. Implicitly the management tries to project that the demonstration conducted by the claimants was in violation of the directions issued by the Head of the Department and amounts to mis-conduct. The above words are to be given

restricted interpretation so as to harmonize it with the provisions of the Act. As projected above, workmen have a right to resort to strike for ventilating their demands. Consequently it emerged that such directions shall have no application to an employee who happens to be workman within the meaning of section 2(s) of the Act.

10. Right to Strike and right to demonstrate are part to fundamental right of freedom of speech and freedom of association, guaranteed under Article 19(1)(a) and 19(1)(c) of the constitution. Can such circular/letters issued by the Head of the Department be held to be reasonable? Restrictions in the interest of public order within the meaning of Article 19(2) and 19(4) of the Constitution can be imposed. Above communications prohibit the claimants from ventilating their grievance under the banner of the Union. The Union if not a recognized trade union, would not be out of bound for the claimants, since they are free to join any association or union. Therefore restrictions so imposed by the Head of Department through the communications, referred above, cannot be said to be reasonable restrictions. The claimants had a right to demonstrate with a view to ventilate their grievance by means of demonstration.

11. Whether demonstration was justified? Such a question is not a mere question of fact. It is a mixed question of fact and law and has to be answered in the light of facts and circumstances of the case under reference. A demonstration in an industrial establishment would be justified when an indiscriminate and hasty use of this weapon has not been made. However, there may be cases where demand is of such an urgent and serious nature that it would be unreasonable to expect the labour to wait. But justifiability of a demonstration/strike has to be viewed from the stand point of fairness and reasonableness of the demand made by the workmen and not merely from the stand point of their exhausting all other legitimate means open to them for getting their demands fulfilled. A strike/demonstration may be justified if it is bonafide, resorted to for the betterment of the conditions of service of the workmen. A strike/demonstration cannot be said to be unjustified unless the reasons for it are entirely perverse or irrational. See *Crompton Greaves Ltd. [1978(2)LLJ. 80]*.

12. Facts and circumstances pertaining to this case project that the claimants were belaboring under feeling that they were being discriminated in allotment of residential accommodation to them. They joined the Union, being the union of their choice. They raised a demand before the authorities but their grievances were not sorted out. A notice was served on the authorities to demonstrate their grievances before the Divisional Office, Ghantaghar, Dehradun on 9.2.1999. The claimants participated in their demonstration to ventilate their grievance. The demonstration does not fall within the ambit of sections 22 or 23 of the Act to declare it illegal under section 24 of the

Act. Under these circumstances it emerges that the demonstration cannot be held to be entirely perverse or irrational to them it illegal and unjustified.

13. Though it was asserted that the claimants resorted to hooliganism, shouted slogans and passed bad remarks against the officers but those circumstances/events are not properly portrayed by Shri N.K. Bansal in his testimony before the Tribunal. Mere allegations that the claimants were involved in hooliganism and resorted to shouting slogans would not make this Tribunal to comment that the claimants became violent and aggressive. Simple assertion that they passed bad remarks would not lead an ordinary prudent man to conclude that the claimants reflected feelings of insubordination and projected conduct subversive of discipline. For want of facts it cannot be concluded that the claimants committed grave mis-conduct when they resorted to demonstration on 9.02.1999.

14. There is other facet of the coin. Though show-cause notices were alleged to have been issued to the claimants but same were not placed before the Tribunal to ascertain that reasonable opportunity was given to them to explain their conduct. In absence of these facts it cannot be said that the management was justified in its act of deducting one day wages for 9.02.1999 from the salary of the claimants. Had the management intended to discipline them, their one day leave would have been deducted. That method was not adopted. Action of the management is violative of principles of natural justice. Hence its action of deduction of one day wages cannot be upheld. Under these circumstances it is crystal clear that the act of the management cannot be held to be legal and justified. The claimants are entitled for release of their one day wages, deducted for 9.2.1999. An Ex. parte Award is, accordingly, passed.

Dated: 25.10.2013

HARBANSH KUMAR SAXENA, Presiding Officer